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# BULLETIN

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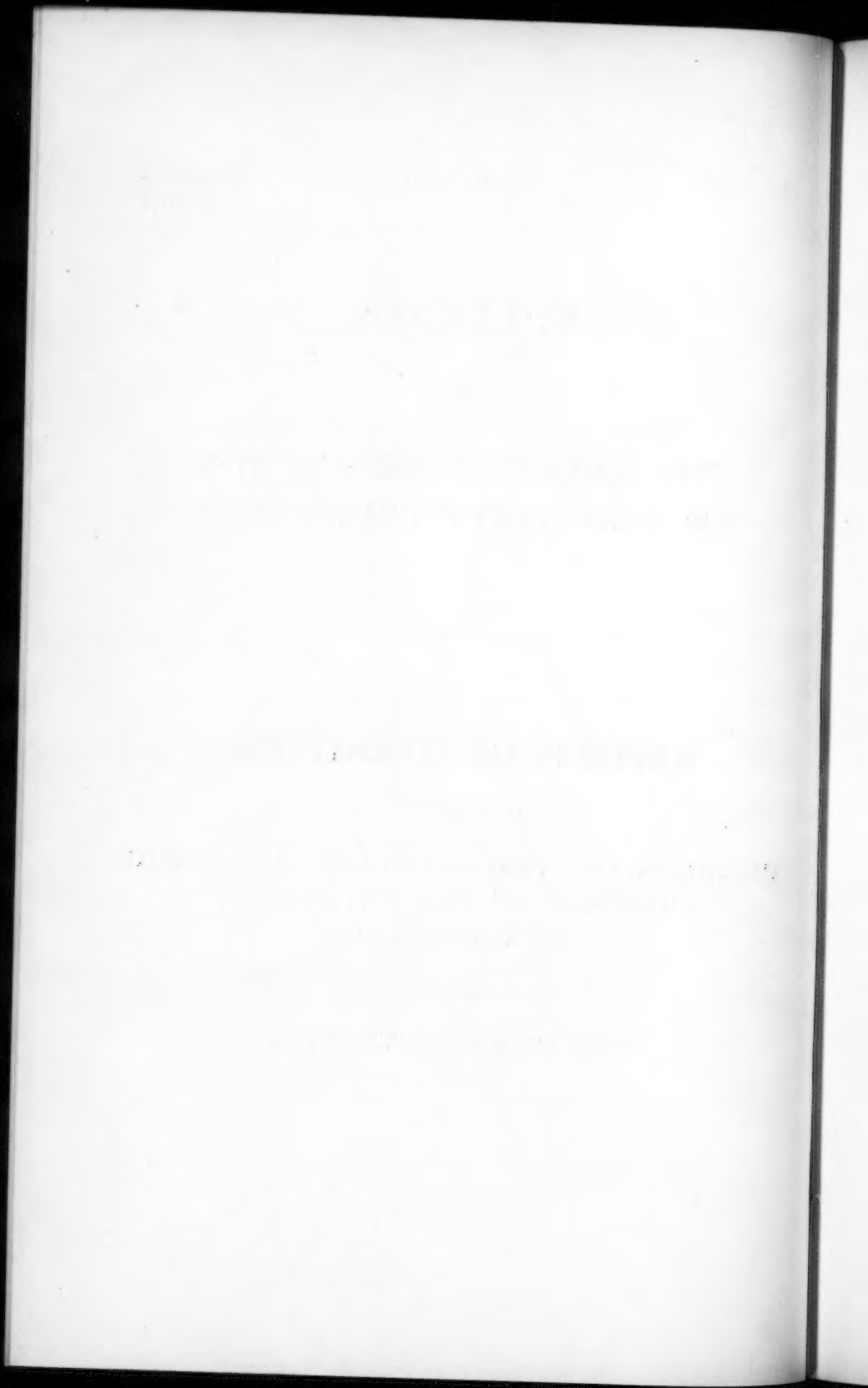
REPORTS OF COMMITTEES

CONCERNING

CHARGES OF VIOLATION OF ACADEMIC  
FREEDOM AT THE UNIVERSITY  
OF COLORADO

AND AT

WESLEYAN UNIVERSITY





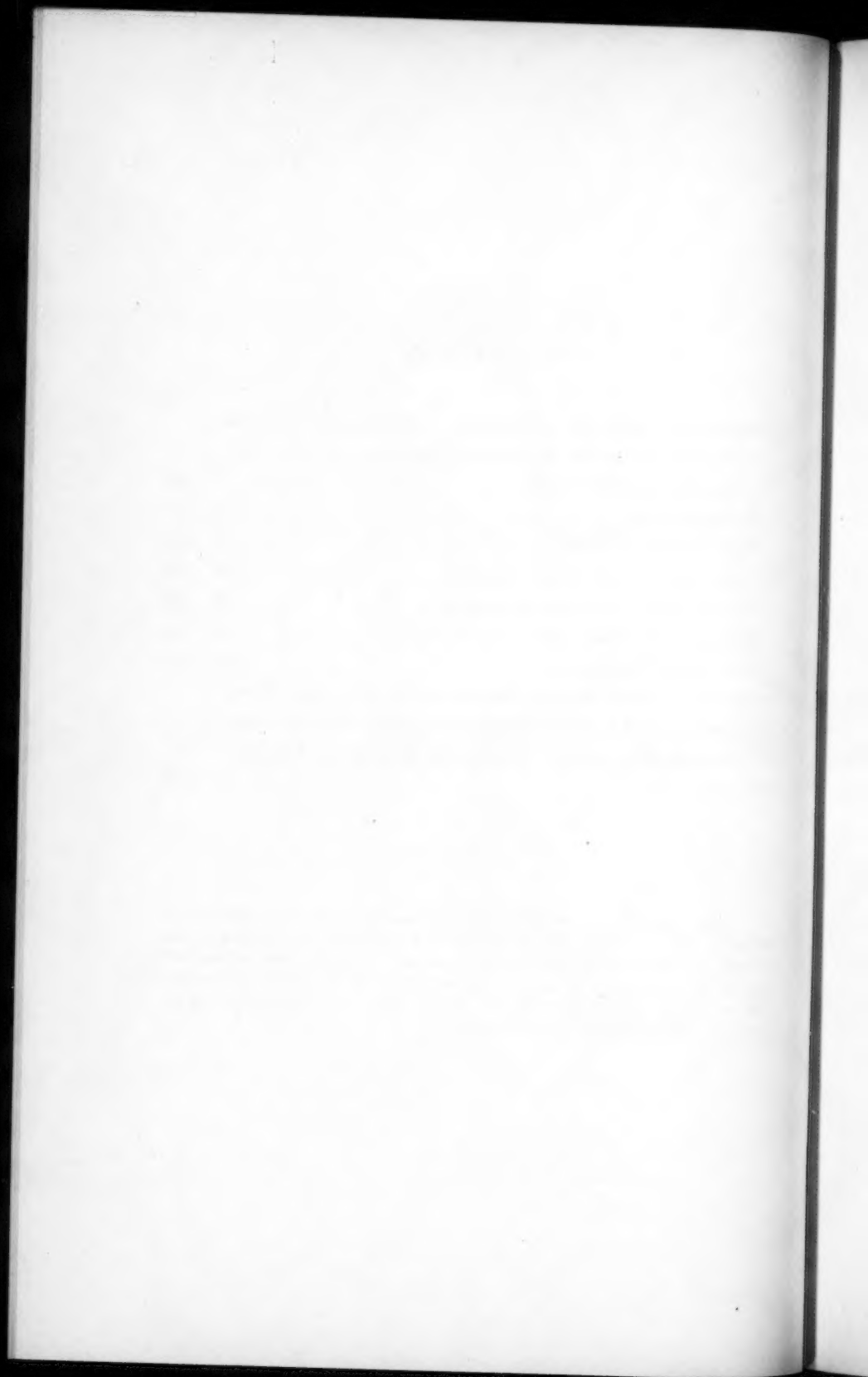
Gift  
Prof. E. C. Case  
5-19-28

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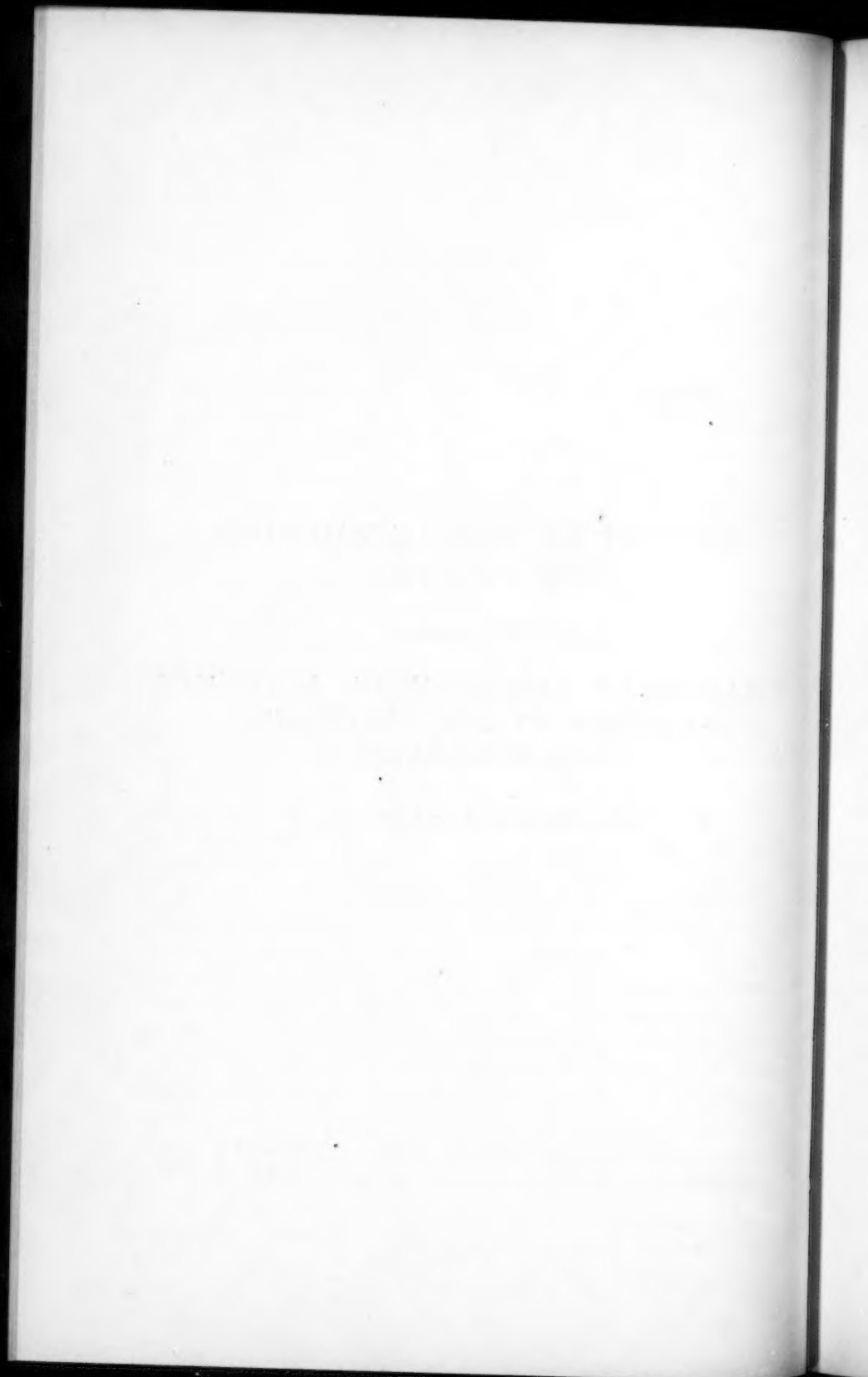


**REPORT OF THE COMMITTEE  
OF INQUIRY**

**CONCERNING**

**CHARGES OF VIOLATION OF ACADEMIC  
FREEDOM AT THE UNIVERSITY  
OF COLORADO**

**SUBMITTED JANUARY, 1916**



## INTRODUCTION

On June 17, 1915, in an open letter,\* Prof. James H. Brewster brought against the University of Colorado charges of improper conduct amounting, under the facts alleged, to a serious breach of academic freedom. Professor Brewster had been a teacher of law in that University during the academic year 1914-15 and was not reappointed for the ensuing year. He charged that, while he had had in law an appointment for the year 1914-15 only, he had been led by the dean of the Colorado University Law School to expect to be continued in the faculty at least for the year 1915-16, but that in May, 1915, he was informed that he would not be reappointed; that this failure to reappoint, in view of the admission of the President of the University that Mr. Brewster had performed his teaching duties with "eminent satisfaction," was practically a dismissal; and that "the only causes for this dismissal are the facts that I testified to the truth before the Commission on Industrial Relations (December 7 and 8, 1914) and that I appeared as Counsel for the Miners' Union before a Congressional Committee in February and March, 1914."

Mr. Brewster further charged that on May 7, 1915, when he called upon the President of the University, Dr. Livingston Farrand, and showed him a telegram from Chairman Walsh, of the United States Commission on Industrial Relations, asking him, Brewster, to come to Washington for a second appearance as a witness before that Commission, the President of the University declared that if he complied with Walsh's request, his connection with the University must cease at once—that is, before the expiration of the then current university session.

In a letter† replying to these charges, dated July 5, and published in several Colorado newspapers on July 7 and 8,

\* Appended Document A.

† Appended Document B.

President Farrand categorically denied that he had made the statement attributed to him, and asserted that the non-reappointment of Professor Brewster came as a consequence of the normal working out of a plan for the reorganization of the Law School which had been entertained by the administration even prior to the original appointment of Professor Brewster in September, 1914.

On July 8, 1915, Professor Brewster published a counter-reply,\* adhering to his former charges and asserting that President Farrand's memory was "strangely defective" as to the alleged incident of May 7. The charges of Professor Brewster, soon after their publication, came to the attention of Prof. John Dewey, President of the American Association of University Professors, who on July 3 addressed a letter of inquiry to former Governor E. M. Ammons, of Colorado, who was charged by Professor Brewster with having demanded, while governor, the latter's dismissal in December, 1914, immediately after Professor Brewster's testimony as a subpoenaed witness before the Industrial Commission at its sittings in Denver on December 7 and 8. That the Governor did urge this dismissal is admitted by President Farrand. This incident will be discussed later. Under date of July 7, Governor Ammons replied in a manner intended to clear the University of the charges made against it, but the contents of his letter aroused rather than allayed suspicion. On July 8, Mr. John R. Commons, of the Commission on Industrial Relations, addressed to President Dewey a letter in which he expressed the hope that the American Association of University Professors would investigate the case. On the next day, President Livingston Farrand wrote to President Dewey saying:

A situation has arisen here to which I find considerable inaccurate publicity has been given. As it seems to touch upon the general question of academic freedom, I am writing to you as President of the Association of University Professors to invite such investigation of the matter as may seem best to you. . . .

\* Appended Document C.

I do not wish to lay undue stress on the case but I am very sensitive about the imputation that academic freedom is in any way inhibited in this University and naturally deprecate any impression going abroad which is not warranted by facts.

If consistent with the purposes of your Association, I would accordingly appreciate a thorough investigation of the situation.

At about the same time Prof. A. O. Lovejoy, Secretary of this Association, met Professor Brewster in Chicago, and the latter manifested a willingness to have his charges investigated.

The facts alleged by Professor Brewster seemed to the Association's General Committee on Academic Freedom to constitute, if established, a violation of academic freedom of peculiar gravity; while it seemed equally evident that if, on the other hand, the charges were without foundation, it was due the administrative authorities of the institution that, after investigation of the case by an impartial body, they should be publicly exonerated from an imputation so injurious not only to themselves but also to the University. It was in these circumstances that the Committee of Fifteen decided to authorize an investigation. Secretary Lovejoy was requested to take preliminary measures for securing further evidence, and later a sub-committee of five was selected to complete the investigation and prepare a report thereon. The membership of this sub-committee was completed in the first week of October, 1915, and consisted of D. O. McGovney, Professor of Law at the University of Missouri, Chairman; Percy Bordwell, Professor of Law at the State University of Iowa; E. H. Hollands, Professor of Philosophy at the University of Kansas; J. E. Le-Rossignol, Professor of Economics at the University of Nebraska; and A. O. Lovejoy, Professor of Philosophy at the Johns Hopkins University.

The investigation was conducted by correspondence, supplemented by personal interviews between Mr. Lovejoy, Messrs. Brewster, Farrand and others at the University of Colorado on September 29, and by personal appearance of

Professor Brewster before Chairman McGovney, at Columbia, Missouri, on November 14 and 15. As a result of this investigation the sub-committee submits the report following.



## REPORT OF THE COMMITTEE OF INQUIRY\*

### PRELIMINARY FACTS

Before entering upon the discussion of the conflicting evidence, it is necessary to state briefly some unquestioned facts explanatory of the evidence, and to disclose the atmosphere of the situation in which the wrongful acts are alleged to have occurred.

Prof. James H. Brewster, who prior to 1910 had been a professor of law in high standing at the University of Michigan, was in that year compelled on account of his health to remove to Colorado. He became a resident of Boulder, the seat of the University, purchasing a house there. While the Colorado strike which broke out in 1913 was in progress, Professor Brewster, much recovered in health, acted on a committee selected by the miners at the request of Governor Ammons to investigate and report whether the facts justified certain charges that had been made of gross abuses and illegal acts of militia in two southern counties where the strike and its attendant violence were occurring. In 1914, before his appointment to the law faculty, Mr. Brewster also acted as counsel for the Unions before a Congressional Committee which made an investigation of the strike.

A few weeks before the opening of the University of Colorado for the year 1914-15 occurred the death of Prof. William H. Pease, a member of the law faculty. In order to fill the vacancy thus suddenly occurring, President Farrand authorized the Dean of the Law School, John D. Fleming, to engage Professor Brewster, and the latter began

\* Appended to this report are copies of the original charges of Professor Brewster, President Farrand's reply, Professor Brewster's counter-reply, his sworn statement relating to the same facts, questionnaires submitted to the President of the University and the Dean of the Law School, with replies thereto, and the other principal evidential documents. The papers printed, however, constitute, in quantity, only a small part of the material examined by the Committee before reaching its findings.

teaching in the middle of September, 1914. On October 23, 1914, President Farrand, by letter, notified Mr. Brewster of the ratification of his appointment as "Acting Professor of Law in the University of Colorado for the academic year 1914-15." It may be noted here that Professor Brewster contended before the committee that the preliminary negotiation did not bring home to him that his appointment was to be of this temporary character, and he stated that this notice of October 23 surprised him, but that he took no action with reference to it. The evidence in this connection will be discussed later. It is admitted by President Farrand and Dean Fleming that Professor's Brewster's teaching was entirely satisfactory.

Being subpoenaed as a witness, Mr. Brewster testified on December 7 and 8, 1914, before the Commission on Industrial Relations at its sittings in Denver. This was the only occasion upon which Professor Brewster made any public utterance with reference to the industrial situation between the time of his appointment to the law faculty and the following May, when, as is admitted by all, his non-reappointment had been definitely determined upon. It should be added that the testimony of students in his law classes is that Professor Brewster in the class room adhered strictly to the subjects he was teaching and made no allusions whatsoever to industrial questions. The courses that he was teaching did not in any way involve the issues that were then agitating Colorado. Immediately after Professor Brewster's testifying in December he was abusively attacked by several Colorado newspapers in unrestrained language and with the most unreasonable distortion and exaggeration of the tenor of his testimony. According to the testimony of President Farrand, E. M. Ammons, then Governor of Colorado, called up President Farrand by telephone soon after Mr. Brewster's appearance before the Commission in Denver, and urged the immediate dismissal of Professor Brewster because of his testimony. President Farrand says:

Governor Ammons called me on the telephone and made strong objections to the character of Mr. Brewster's testimony. He regarded it as most unfortunate that any one connected with the University should make such statements as Mr. Brewster had made and urged that his services should be dispensed with. . . .

In reply to Governor Ammons, I stated that while I had not seen a transcript of Mr. Brewster's testimony, I did not regard it as possible that anything which he might have said would be a matter for academic discipline. I reminded Governor Ammons that the discharge of a member of a university faculty for anything which he might say in his capacity as a citizen was a very serious matter and that the preservation of academic freedom was one of the first responsibilities of any university. I said further that, while I would naturally take occasion to read Mr. Brewster's testimony, I had no idea that it would contain any matter which could call for action by the Board of Regents of the University.

In a letter to Mr. Lovejoy, dated August 25, 1915, Mr. Brewster says:

On the first issue, arising from Governor Ammons' demand in December for my removal, it is true that Dr. Farrand's conduct was in the interest of academic freedom. Later developments altered his attitude.

It is clear, therefore, that on this occasion President Farrand took a strong and dignified stand in support of the principle of academic freedom, and of the civic rights of the professors of the University of Colorado; and that his action in the matter was such as should be followed by all state university executives in similar circumstances.

A short time after this telephone conversation between the President of the University and the Governor, the President related to Mr. Brewster what had occurred. About this time some rumors of the incident appeared in the Colorado newspapers. How it leaked out is not definitely known except that it was not through Mr. Brewster, who declined, when interviewed, to make any statement about it. Nothing further relative to the matter under investigation occurred until late in the spring of 1915, except that in the

meantime Dean John D. Fleming discussed with Mr. Brewster casually from time to time matters incident to Mr. Brewster's work in the law school for the "next year."

Long before Mr. Brewster's appointment in September, 1914, the will of Lucinda Thomson, containing a bequest of about \$70,000 to the University for the use of the Law School had been probated. For reasons not relevant here, it remained long uncertain at what time the executors would pay this bequest. In March, 1915, the authorities of the University were informed that this bequest would be paid perhaps in May, or at least before the opening of the session of 1915-16. At the meeting of the Board of Regents on April 30, 1915, a plan for the "reorganization" of the Law School, recommended by Dean Fleming and President Farrand, was informally approved by the Board. President Farrand and Dean Fleming have testified that before Professor Brewster's original appointment they had already conceived bringing about this "reorganization" as soon as the Thomson bequest should be paid; and Mr. Brewster admits having had knowledge that some "reorganization" was contemplated, upon this contingency, though he denies that he was informed that the character of this "reorganization" was such as to exclude him. Down to May 7, Professor Brewster remained in ignorance of the fact that the payment of the bequest was soon to be made and in ignorance of the action of the Dean, President and Board of Regents on April 30 for the immediate realization of this "reorganization."

Thus the matter stood on May 7, 1915, when Mr. Brewster received the telegram from Chairman Walsh of the Commission on Industrial Relations, asking him to appear in Washington not later than May 17 to testify on certain matters which Chairman Walsh deemed of great importance. About eight o'clock on the evening of May 7, Mr. Brewster called at President Farrand's residence to show him this telegram because, as Mr. Brewster says, the violent criticisms evoked by his former testimony suggested that he should obtain President Farrand's view before deciding to go to Washington.

President Farrand read Walsh's telegram carefully and a brief conversation ensued. The statements of Professor Brewster and of President Farrand as to what was said in the course of this conversation present a direct conflict with respect to the principal matters at issue. Mr. Brewster says that immediately after reading the telegram, President Farrand said in substance that it presented a matter for Mr. Brewster to decide personally, but that if he did go to Washington, his connection with the University must cease at once. President Farrand categorically denies having made this statement. President Farrand adds in his published statement of July 5:

What I told Mr. Brewster was that if he decided to appear in Washington, I thought it would be wise to issue a statement indicating the fact that his connection with the University was a temporary one and that it would naturally terminate at the end of the current academic year.

Both are agreed that at the conclusion of the conversation President Farrand said in substance that if Mr. Brewster decided not to go to Washington, his not going must not be construed as putting the University under any obligation to reappoint him. In his deposition of October 16, 1916 (Appended Document F), President Farrand further said in reply to question 12:

Toward the end of the conversation, I stated that if he declined to go to Washington, it must not be construed as affecting in any way the plans for reorganizing the School of Law.

Question 15 was, "Will President Farrand state specifically whether, on May 7, he used to Mr. Brewster the following language or any language of equivalent import: "Your remaining at work (i.e., not going to Washington) must not be construed as putting the University under obligations to reappoint you." To this President Farrand replied, "As stated in my reply to Question 12, I used such language or its equivalent." Mr. Brewster's version of this statement is that President Farrand said in substance, "That if



I remained, the University must be considered as under no obligation to reappoint me, immediately adding that a reorganization of the Law School was contemplated. *His words were very few on both these points."*

Professor Brewster asserts that the only information or intimation relative to any decision not to reappoint him in any event came at the close of this brief conversation and was conveyed exclusively by the words just quoted; and, further, that this was the only allusion in the conversation of May 7 to the proposed reorganization. On the other hand, President Farrand deposes (under date of October 16):

I remember distinctly, that after reading the telegram carefully, I stated that the question of his going was one for him to decide but that before discussing the matter further I wished him to know exactly what the Regents had in mind with regard to the School of Law and their plans for its reorganization. I then told him in some detail the plans approved by the Regents at their meeting a week previous. I stated that this plan did not involve inviting Mr. Brewster to continue in the service of the University beyond the end of that academic year. I told him that we appreciated his faithful and efficient service during the year. I stated that I regarded it as a prime consideration that the permanent incumbent of the chair vacated by the death of Professor Pease should be a young and vigorous man, and in this opinion the Dean and Board of Regents concurred. I further stated that we should proceed actively to find an available man for that chair. The conversation then turned to the question of Mr. Brewster's acceptance or declination of the invitation to go to Washington.

Recurring to admitted facts as to this conversation of May 7: reference was made in the course of it to the possible loss of time to the students resulting from Mr. Brewster's absence in Washington. Dean Fleming states to the committee that he regarded such absence as a serious matter, coming as it would so late in the year. It should be noted, however, that President Farrand says:

Mr. Brewster felt that his work could be provided for without serious detriment to his classes and I did not lay much stress in our conversation upon that point.

It is admitted by President Farrand that he told Professor Brewster during this conversation that he regarded the publicity which had attended Mr. Brewster's testimony as detrimental in its effects upon the University and that he (President Farrand) had found Mr. Brewster an obstacle, (a "very great obstacle," according to Mr. Brewster's version) in the University's dealing with the Appropriation Committee of the legislature in January, 1915. Another fact about which there is no contention is that this conversation on May 7 was a hurried one. President Farrand was on the point of going out for an evening engagement; the parties remained seated but a few minutes and the concluding remarks were made while they were walking towards the door, in the course of Mr. Brewster's departure.

Mr. Brewster decided not to go to Washington and so telegraphed Chairman Walsh on May 8, saying:

Regret exceedingly duty to University prevents compliance your request. My appearance before Commission in December embarrassed University before legislative appropriation committee. Am in honor bound to complete year's work without further embarrassment . . . . (Appended Document G).

On May 21, by arrangement, Mr. Brewster met President Farrand at the latter's office and in a conversation then had, lasting about an hour, a disagreement developed as to what had been said on May 7. The evidence of this conversation of May 21 before the committee consists of a five page type-written memorandum made by Professor Brewster on the same or the following day. This memorandum discloses that President Farrand took on May 21 substantially the same position with reference to what he had said on May 7 that he has subsequently taken by his statements to the public and to this committee.

## FINDINGS OF THE COMMITTEE

### *I. On the Main Charge*

The committee finds that the evidence before it does not sustain the main charge; it finds that the actuating motive of the President and Board of Regents of the University of Colorado in determining not to renew Professor Brewster's appointment was not his action during the strike, nor his attitude on industrial questions.

Sufficient proof of the untenability of this charge is, in the committee's opinion, found in the consistent testimony of President Farrand, corroborated by the clear and positive statements of John D. Fleming, Dean of the Law School, and of B. R. Hellems, Dean of the College of Liberal Arts. From this evidence it appears that prior to Mr. Brewster's appointment to the faculty a plan was definitely in the minds of the President and the Dean of the Law School to "re-organize" the school so soon as the Thomson bequest should become available; that it was from the beginning a definite part of this plan to fill new positions or vacancies by the appointment of young and vigorous men; that at the time of Professor Pease's death this plan was definitely in mind, but could not be realized immediately because it was then entirely uncertain when the bequest was to be paid; that in consequence the President and Dean agreed to ask Mr. Brewster to step in temporarily to help out; that President Farrand and Dean Fleming both believed that Mr. Brewster understood the temporary character of the employment he was accepting, though it is not claimed by them that Professor Brewster knew that the reason he was not then given a permanent appointment was that he was not so young a man as they desired; that finally, when they learned in March, 1915, that the Thomson bequest would be available for the year 1915-16, they decided to set about at once realizing their previous plan, and Pro-



fessor Brewster accordingly was not considered for reappointment. (Statements of John D. Fleming, Appended Documents I, J, K; of B. R. Hellems, Document L; and of Livingston Farrand, Documents F and M.)

The negotiations with Professor Brewster leading to his accepting a position in September, 1914, were conducted by Dean Fleming, and were oral, with the exception of three letters, two from Fleming to Brewster and one from Brewster in reply, the latter then being away on a fishing trip. Those letters in terms were only tentative, and resulted, as they were intended, in Brewster's taking up the actual negotiations upon his return to Boulder. While it is a little remarkable that letters written even merely to enquire whether the person addressed would consider a position in a law school are not more explicit as to the character of the position, the fact remains that the expressions of these letters are, in the opinion of a majority of the committee, equally consistent with a temporary or permanent appointment, and consequently do not negative Dean Fleming's statement that he sought Brewster for temporary employment. One member of the committee believes that these letters tend slightly more towards indicating that temporary appointment was intended; but all concur, on the other hand, in holding that they do not expressly preclude Professor Brewster's having understood that permanent employment was intended.

Speaking with reference to the oral negotiation which took place after Brewster's return to Boulder, Dean Fleming in his statement of November 10, 1915 says: "At this time, I distinctly told Professor Brewster that any arrangement was to be considered but temporary." Also in answer to the question: "What contingencies did you then have in mind that might terminate his (Brewster's) relationship with the University?" Mr. Fleming replied,

What I conceived to be Professor Brewster's delicate state of health was probably uppermost in my mind as controlling not only the duration of his employment but his hours of labor and char-

acter of his work. Besides, I kept continually before me the prospect of the payment of the Thomson bequest and probable thorough reorganization of our law faculty with full professors upon full time throughout.

In explanation of this allusion to "hours of labor," it may be said that Professor Pease had been carrying what in most good law schools would be regarded as an inordinate amount of work, and that Professor Brewster was willing to undertake only a part of it. The amount of teaching which Mr. Brewster did undertake is regarded by a dozen or more good law schools in the United States as the maximum to be expected of a law professor giving his whole time to the school; but accustomed as Dean Fleming himself was to teach much more, and in view of the amount theretofore carried by other teachers in the Colorado University Law School, it evidently was natural that Dean Fleming should feel that on the face of it the appointment was not a normal one, while Professor Brewster who had been accustomed to a different standard might well have drawn no such inference from this fact. A less ambiguous indication that the authorities did not regard Mr. Brewster's position as a regular professorial one is the fact that the salary agreed upon for Mr. Brewster was small, being much less than Mr. Fleming's, less almost in the proportion that his teaching hours were less.

It is unnecessary, however, for the committee to attempt to ascertain more definitely the correctness of either party's interpretation of this negotiation, because on October 22 the Board of Regents ratified the appointment of Mr. Brewster as "Acting Professor," and under date of October 23, President Farrand notified him, as stated above, that he had been appointed "acting professor for the academic year 1914-15." Thus the understanding of the authorities of the University as to the terms of Mr. Brewster's appointment were clearly brought to his notice within six or seven weeks after he began teaching, and this at a time when nothing whatever had occurred to suggest any change of mind on the part of those authorities.

The apparent contradiction in Dean Fleming's position, involved in the references which he made, in conversation from time to time with Professor Brewster even as late as the spring of 1915, to Professor Brewster's work "the next year," meaning the year 1915-16, disappears with Mr. Fleming's explanation that these references were made before he learned that the Thomson bequest would be paid so soon. Dean Fleming says: "I had resolved to recommend that Professor Brewster be invited to continue his work, if we did not come into the enjoyment of our bequest so as to make it available for 'next year'." President Farrand also says,

While hoping that the vacancy which Mr. Brewster was filling in part might be permanently supplied before the beginning of the academic year 1915-16, I did not press vigorously in the matter until March 1915. Up to that time, I should not have been greatly concerned if the temporary arrangement in force during the year 1914-15 had been continued for another year, and I have no doubt, had such a course been necessary, that Messrs. Brewster, Moorhead and Folsom would have been asked to continue their temporary services until permanent appointments should be made.

It is, then, in the committee's opinion, established that Professor Brewster's position in the University during the academic year 1914-15 was essentially that of a temporary substitute; and that plans formed and expressed by the President of the University prior to Mr. Brewster's appointment, with reference to the eventual constitution of the law faculty, account sufficiently for the President's decision not to recommend that Mr. Brewster be elected to a permanent professorship. Moreover, in spite of Mr. Brewster's success in his teaching in Colorado and elsewhere, it was, in the committee's opinion, wholly natural that the University authorities, having a long-anticipated opportunity to fill an important position (in a law school having a relatively small faculty to do its work) should have thought it inexpedient to select for this position a man nearly fifty-nine

years of age, who was (rightly or otherwise) believed to be in somewhat delicate health. Even if the committee did not have before it President Farrand's sworn declaration that his decision against reappointment was not actuated by the motives which Mr. Brewster alleges, it would deem it unjustifiable to impute improper motives in order to account for a decision which can be adequately accounted for upon other and legitimate grounds.

The only specific evidence introduced by Mr. Brewster in support of his charge respecting the motives of the University authorities is contained in the following letter, under date of November 4, 1915:

DEAR MR. LOVEJOY: I have just now been told the following, which seems quite material. Henry O. Andrew, a lawyer of this City, tells me this, and says I may quote him. During the trial of a case here in June last in which the University was interested, Edwin H. Park, a lawyer of Denver, representing the University in the case, had a conversation with Andrew substantially as follows:

PARK: "I see Brewster is making a kick."

ANDREW: "Well, he's lost his position, hasn't he?"

PARK: "Yes, and we got him. He criticised Judge Hillyer recently. *But the matter was fixed long before that; you know I'm on the Advisory Committee of the University.*"\*

I did not criticize Judge Hillyer till the latter part of May, and after my second talk with Farrand.

Judge Hillyer was afterwards barred by our Supreme Court from trying any of the former strikers—so my criticisms of him were sustained. . . .

Sincerely yours,

JAMES H. BREWSTER.

Mr. Edwin H. Park, referred to in the above, is not to be confused with Mr. Clifford C. Parks. The latter became a member of the Board of Regents in January, 1915, and is mentioned in Mr. Brewster's first published charges. The former was a member of the University Advisory Committee,

\* The Committee is subsequently in receipt of an affidavit from Mr. Andrew, confirming this report of the conversation in question.

which is little more than a list of names of forty or fifty prominent citizens of the State whose influence the University seeks to enlist in its behalf and whose designation is mainly honorary.

The evidence afforded by this conversation, taken at its face value, goes only to show the attitude and belief of a single individual very slightly connected with the University administration, and is insufficient to countervail the general tendency of the evidence as a whole.

In view of all the foregoing considerations, it appears to the committee that the authorities of the University of Colorado are clearly exonerated from the main charge.

## *II. On the Conversation of May 7*

In order to understand the state of mind of Professor Brewster at the time of this conversation, it should be noted that the "younger man idea" was never broached to Professor Brewster prior to the intimation of it by President Farrand on this occasion. Dean Fleming in answer to the question, "Did you ever tell Professor Brewster that a reorganization of the law school was intended to be effectuated when the Thomson bequest was paid, and particularly, did you ever intimate to him that he would have no place in that reorganization?" replied: "Yes, in my first interview with him, when his aid was first solicited, and afterward frequently whenever the Thomson bequest was under discussion the reorganization was mentioned and emphasized. I did not, however, tell him that he was not to have a place. I thought he knew this or could reasonably infer it from the circumstances and all that had been previously said."

When it is considered that Professor Brewster had during the year 1913-14 stood up well under rather arduous professional services and was informed by his physician that he was then free from the disease which had brought him to Colorado; when it is considered that he performed a commonly accepted amount of teaching with energy and success



according to the testimony of the students, and to the admitted satisfaction of the President of the University; and when it is considered that he took a just pride in the reputation that he had attained for successful work in the law department of the University of Michigan: it does not appear that Mr. Brewster would have been unjustified in not inferring—even from emphasized statements about reorganization—that he was not to be a part of the faculty thereunder. It should be noted that at the time of his original appointment, Mr. Brewster was fifty-eight years of age and had seven years of service before him, according to the lowest age of retirement in vogue in American universities. In short, the statement of Professor Brewster that he was led by the references of Dean Fleming to his work for the next year to expect to be reappointed, and that he was greatly surprised to learn the contrary in May, seems entirely reasonable.

It is apparent that each of the parties to the conversation of May 7 came together with minds uninformed as to the content of the other's, on points material to the matters alleged to have been said in the course of it. President Farrand was probably not aware of Mr. Brewster's definite expectation of reappointment, for he did not know of the Dean's reference to "next year." President Farrand doubtless believed that Mr. Brewster still had in mind the distinctly temporary character of the appointment, as notified in the President's letter of October 23. Whatever conjecture there may be in the above, there is none whatever in the significant facts that President Farrand knew and Professor Brewster did not know that the Thomson bequest was to be paid soon, that the President and Dean had formulated a plan for the prompt realization of the intended reorganization, that this plan had been informally approved by the Board of Regents on April 30, a week before, and that it had been informally but definitely decided that Mr. Brewster was not to be retained.

Another element that made pregnant with danger of misunderstandings the coming together of these two men at

this juncture, for conversation which must necessarily touch in some way upon Mr. Brewster's relations to the University and at the same time upon his relations to the industrial controversy, was the atmosphere of intense partisanship, of suspicion and resentment throughout the state, and the widespread belief that improper influences were being brought to bear in all directions. Mr. Brewster's testimony in December had been favorable to the strikers, and was resented by the operators and their friends. It was mainly the newspapers supporting the operators who abusively attacked Mr. Brewster. Some of these same newspapers defended the so-called "dismissal" after it became known, and many of them assumed that the reason for it was Mr. Brewster's activity in the industrial controversy. "In January, also," says Mr. Brewster, "two new members of the University Board of Regents took office. One of these new Regents is Clifford C. Parks, who will not deny that he is a stockholder in the Rocky Mountain Fuel Company, one of the three coal companies chiefly involved in the strike. Mr. Parks is a man of great influence, wealth, and political prominence, and his antipathy to the Miners' Union is well known." With the truth of these averments the committee is not concerned; the citation is introduced here solely to show the apprehensions of Mr. Brewster.

Mr. Farrand says that he found Mr. Brewster an "obstacle" in his dealings in January with the Appropriations Committee in the Legislature. He states to this committee:

It was reported to me at various times by friends of the University that there were members of the Legislature who were outspoken in their denunciation of Mr. Brewster's public statements, who objected to his connection with the University, and who were luke-warm in their support of the University or opposed to it on his account.

That some of the operators and some of their partisans used every influence to accomplish their desires in other directions was well known in Colorado. There is also some

evidence before this committee that certain friends of the University, to say nothing of Mr. Brewster's friends, believe, and believed at the time, that he was "dismissed" because of his connection with the industrial controversy. Witness the statement of Mr. Andrew previously quoted.

While the University is rescued from these aspersions of its supposed friends as well as of its avowed critics, it may be deduced that the atmosphere of Colorado was one of belief in many quarters that such things were not only possible but matters of actual and common occurrence.

Bearing these antecedent considerations in mind the committee turns to a direct examination of Mr. Brewster's charges concerning President Farrand's utterances on May 7. It is charged that in this conversation President Farrand committed a breach of academic freedom, by his alleged threat that if Mr. Brewster complied with Mr. Walsh's request his connection with the University must end *at once*. This is a separate charge. The charge already disposed of was against both the President and the Board of Regents, and was an allegation of bad motives in not reappointing Mr. Brewster. The present charge is against the President alone. It must be kept distinctly in mind, also, that the threat charged is one of *immediate dismissal* if Brewster went to Washington, as distinguished from a threat of non-reappointment for the ensuing year.

Did President Farrand on May 7 make such threat?

That he did is positively affirmed by Mr. Brewster, and with equal positiveness denied by Mr. Farrand. No third person was present at the conversation, and the only direct evidence as to what was said consists of these subsequent and conflicting statements of the parties themselves.

The committee has received assurances from men of high standing and discrimination, who have had opportunities to observe both men intimately through a long course of years, testifying equally to their veracity and high standards of honesty and honorable conduct; and the committee must assume that both have testified with the utmost good faith, honestly believing that they correctly



state accurate recollections as to the contents of the conversation of May 7. If it were not possible by an analysis of the statements of the two sides, on related points, with the aid of attendant circumstances, to get further light, the committee would, in such circumstances, necessarily be obliged to report that it was unable to reach any conclusion upon this part of the case. Since Mr. Brewster must be regarded as the proponent of this issue, such a finding would be equivalent to a decision that the charge was not sustained.

It is, however, in the committee's opinion, possible, by the analysis indicated, to point out the probability of the correctness of the respective versions of the interview, and to do this without calling in question the sincerity of either witness.

1. The committee has first asked whether there is a greater possibility of error of memory in the statements of the one witness than of the other. In view of the fact that Mr. Brewster recorded the alleged threat in a letter to Walsh, written May 9, only two days after the conversation, while the first recorded denial of having made the threat, on the part of Mr. Farrand, was in the latter's conversation of May 21, as reported by Mr. Brewster, the proponent has a small advantage as to contemporaneousness of record: But this slightly greater probability of confusion of memory on the part of Mr. Farrand, suggested by twelve days' difference, seems too slight to be relied upon.

Mr. Brewster, however, asserts in his published letter of July 8, that while Mr. Farrand in the conversation of May 21 denied making the threat, he was trapped by Mr. Brewster into a tacit admission of having made it. Mr. Brewster says in the letter of July 8\* that upon hearing this denial, he reminded Mr. Farrand of the (alleged) trend of the conversation, i.e.,

That, when he said my connection with the University must end if I went to Washington, I stated that I would remain in

\* A similar version of this episode is found in Brewster's memorandum of May 21 or 22.

justice to the students, and that he then said that my remaining must not be considered as entitling me to a reappointment, and spoke of his bother with the appropriation committee. On reminding him thus of the substance of our first talk, I asked him why it was that my *remaining* with the University was remarked upon, if he had not suggested the alternative of my *leaving* it. To this pertinent question he had no answer, and there is none, except an admission on his part that my statement is true.

Mr. Farrand admits that he made one of the statements above attributed to him, viz., that Brewster must not regard his remaining as entitling him to reappointment.

Mr. Brewster in the quotation above argues that by the question he put he presented to President Farrand the dilemma of either denying having made this statement which he admits making, or else, by his silence, admitting having made also the other statement. This inference would hold only if the denied statement were the mere correlative of the admitted one, or involved in it as a part of the whole.

Now it is clear that *remain* (appearing once) and *remaining* (appearing twice) have in their context here the meaning 'not going to Washington;' while *leaving*, as used here by Mr. Brewster has, and was intended to have, the sense of 'severing connection with the University at once.' *Leaving* and *remaining*, therefore, in their context here are not exactly antithetic. The implied alternative to Mr. Brewster's 'remaining,' i.e., his not going to Washington, was not his 'severing connection with the University' but simply his going to Washington. In short, the dilemma which Brewster argues he put to the President was not in fact put by the language used, and it is not remarkable that President Farrand ignored such a *non-sequitur*.

2. The committee has next considered whether the alleged threat is incompatible with other statements admitted by Brewster to have been made during the conversation, and therefore unlikely to have been made in conjunction with them.

Mr. Farrand states that at the outset of the conversation he paused before addressing himself to the matter of the

telegram to tell Mr. Brewster of the plan to realize at once the reorganization of the law school and that he definitely informed Mr. Brewster that his connection with the University was to cease at the close of that session.

Mr. Brewster states that the threatening statement came as the first reaction of President Farrand upon reading the Walsh telegram which Brewster handed him upon entering the room; that Farrand did not *tell* him that he was not to be reappointed and that the reorganization was not emphasized; but that the only *intimation* that he was given on this point was that involved in the statements made at the very close of the conversation, to the effect that if he did not go to Washington, he was not to consider the University under obligations to reappoint him and that the Regents were contemplating a reorganization of the law school. President Farrand admits that a (further) reference to the reorganization plans was made at the very end of the conversation.

It will throw light upon the problem to ascertain just what significance Mr. Brewster attached to what he calls an 'intimation' of non-reappointment. The most nearly contemporary version of this 'intimation' is in Brewster's letter to Walsh, May 9, 1914:

But he also said that if I remained I must distinctly understand that the University must be considered as under no obligation to me and I must not expect to be continued in office.

Mr. Brewster has argued that this language, in his letter to Walsh, merely records a warning from President Farrand against *expectations* arising from obligation and negation of obligation. Later in the letter to Walsh, is the statement:

The authorities do not intend to re-appoint me and are probably going to give as a reason that they want a younger man.

This statement, Mr. Brewster now says, is only an assertion of a mere conclusion drawn from an *intimation* of non-reappointment. It is in fact consistent with such an inter-

pretation. It does not read: "I was told that the authorities," etc.

Mr. Brewster has argued to the committee that a still later statement in this letter shows that he then considered reappointment to some extent still open: "Should they reappoint me, I shall pursue such a course as seems right." In the oral examination before Chairman McGovney, Mr. Brewster stated that he reported the occurrences of May 7 to two or three prominent labor leaders in Denver, on May 8 and 9, who proposed bringing pressure to bear on the Board of Regents, either to reappoint Brewster or state the reason for not doing so. It is in relating this to Mr. Walsh that Mr. Brewster concludes with the last quoted passage. It is obvious that it refers to the possibility of reappointment as the result of pressure brought, and implies that the case had been so stated by Brewster to his friends that they regarded it as hopeless, unless pressure was brought. Mr. Brewster also stated in the oral examination before Chairman McGovney that on May 8 or 9 Mrs. Brewster confidentially told an intimate friend in substance: Mr. Brewster is not going to be reappointed, and it is on account of the labor union matter. Finally, in a written argument of November 4, 1915, referring to this conversation, Mr. Brewster says that "it was, suddenly and unexpectedly, strongly intimated" to him that his reappointment was not contemplated.

It is admitted by Mr. Brewster, therefore, that during the conversation he received *strong* intimation that his reappointment was not contemplated. More than this, it must now be taken as admitted by him that at some time during the conversation, Mr. Farrand assigned as a reason for the non-retention of Mr. Brewster, that a younger man was desired. This element is missing from all of Mr. Brewster's published statements, but it is revealed in his letter to Mr. Walsh, of May 9, and more particularly in his letter of May 11 to President Farrand. This omission in itself is perhaps not remarkable, in view of the slight weight which Mr. Brewster attributed to the fact until the evidence was dis-

closed to him showing that this idea had been in the minds of the administration from the beginning. In the present connection, however, this admission of Mr. Brewster's is remarkably significant. Mr. Brewster has not been able to indicate at what part of the conversation this allusion to the "younger man" was made and has not claimed that it came near the end of the conversation. This element, therefore, must be taken to corroborate the version of Mr. Farrand, to the extent that in the earlier part of the conversation the reorganization was mentioned and a reason assigned why Mr. Brewster was not intended to be included therein.

This evidence from Mr. Brewster's own statements that a reason was assigned on May 7 by President Farrand for the non-reappointment shows that Mr. Brewster's latest admission of a strong intimation of non-reappointment still falls short of the fact. It is one thing to "strongly intimate" non-reappointment, and quite another to speak of it so definitely as to assign a reason for it. The committee must conclude that President Farrand did tell Mr. Brewster that, irrespective of his going or not going to Washington, he was not to be reappointed.

Another fact, upon which both versions entirely agree, is that President Farrand suggested to Mr. Brewster that if he did decide to go to Washington to appear before the Commission, it would be well to issue a statement indicating the temporary character of his position in the University.

Thus the principal conceded facts as to the content of the conversations of May 7, in the light of which we must judge as to the alleged threat, are three: (a) Mr. Brewster was told that he was not to be reappointed in any event, quite apart from his going or not going to Washington;\*

\* Mr. Brewster states to the Committee that he has never contended that his non-reappointment was at any time suggested as a consequence that would flow from his going to Washington; the cause of that, he has always contended, was his testifying in December, and the pressure brought as a result of it.



at least two references were made to the reorganization; and a reason was assigned why Mr. Brewster was not to be included therein. (b) Mr. Farrand stated that if Mr. Brewster went to Washington, a statement should be issued, calling the public's attention to the temporary character of Mr. Brewster's connection with the University. (c) Statements were made by President Farrand to the effect that Brewster's previous connection with the industrial trouble had been an obstacle in Farrand's dealings with the legislative appropriation committee, along with general observations upon the prejudice resulting to the University from involvement in the controversy. These conceded points must now be considered in their bearing upon the probability of the two versions of the remaining part of the conversation.

(a) It is at once apparent that the inclusion of the alleged threatening statement in a conversation in which the matter in point (a) was stated, is highly improbable. In order to assume that the threatening statement was included in a conversation which also contained this point, it would be necessary to suppose that President Farrand said to Mr. Brewster in substance:

Your connection with the University will in any event terminate at the end of the year (*i.e.*, in a few weeks); but if you go to Washington, it must terminate at once.

In other words, Mr. Brewster's account implies that President Farrand proposed to incur a certain and violent storm of public criticism and agitation by an executive act of the most arbitrary and sensational character, for the sole purpose of abridging by only a few weeks Mr. Brewster's connection with the University. The committee finds some difficulty in imagining any college executive to have been capable of an act of such gratuitous imprudence.

It has, indeed, been argued to the committee that Mr. Farrand might have spoken hastily, and that the injurious consequences just referred to would not necessarily result from the threat, since there would be time for repentance

before Mr. Brewster's return from Washington, if he went. This contention overlooks the fact that danger lay in the mere making of the statement; though it is true that greater injury would result from the execution of the alleged threat, yet the threat unexecuted would put the University in jeopardy of a most serious entanglement in a partisan controversy, which it is admitted that President Farrand desired to avoid.

(b) It is also highly improbable that the threatening statement should occur in a conversation containing point (b). Mr. Brewster speaks of this suggested public statement as intended by Dr. Farrand "as a way of explaining why I left the University." According to the alleged threatening statement, if Mr. Brewster testified before the Commission in Washington, he was to lose his University position forthwith, even before completing his lectures for the year. After such a summary dismissal, it would surely have been singularly superfluous to announce that Mr. Brewster's position had been a temporary one—if the purpose of the announcement was, as Mr. Brewster's references to the suggestion seem to intimate, to dissociate the University from any responsibility for Mr. Brewster's utterances. If, on the other hand, the purpose of the suggestion had been to make Mr. Brewster's summary dismissal seem less peculiar, the suggestion was remarkably ill adapted to this purpose. It is not customary to terminate even temporary University appointments before the end of the period for which the appointments are made, or while the appointee's lecture courses are still in progress. Nor could the President, after having plainly told Mr. Brewster that the reason for his immediate dismissal was his going to Washington to testify, have expected that Mr. Brewster would keep that reason to himself, or have hoped to induce the public to suppose that such summary dismissal was an ordinary incident to "temporary appointments."

The committee has also considered the probability of misunderstandings on the part of Mr. Farrand as to the distinctness and effect of his statements and on the part of

Mr. Brewster as to their import and relation. Attention has already been called to matters directly affecting Mr. Brewster's relations to the University, of which he was ignorant when the conversation opened, and also to the fact that Mr. Farrand was not aware of the occurrences which had reasonably led Mr. Brewster to expect reappointment. This ignorance on the President's part of Mr. Brewster's expectations exculpates him from any charge of intentional unfairness, so far as his acts on and prior to May 7 are concerned. Yet the fact remains that the late notice that he would not be retained was, in effect, unfair to Mr. Brewster. The decision not to reappoint him involved no breach of express or implied contract with him, and if made earlier and less abruptly would not have given any grounds for complaint. But in view of his reasonable expectations, for which the language of an executive official (Dean Fleming) was responsible,\* in view of the fact that his teaching work was "eminently satisfactory," and in view of the lateness of the date at which the decision of the question of reappointment had to be made, it would have been more considerate had Mr. Brewster been continued in office for the ensuing year with definite notice that at the end of that time he need not expect reappointment. This is especially true in view of the statements of the administration that Mr. Brewster had originally come into the faculty to help them out in an emergency.

One other circumstance that might readily have given the disclosures of this conversation a sinister turn in the mind of Professor Brewster is the fact that President Farrand clearly did not take on May 7 so strong and unequivocal a stand for academic freedom as he had taken in December. President Farrand did attempt to induce Mr. Brewster not to go to Washington; "the atmosphere of my remarks," says Mr. Farrand to a member of the committee, "was dissuasive, that is perfectly true." He also made the suggestion that if Mr. Brewster in spite of this dissuasion should go

\* It does not appear, however, that on May 7 President Farrand was aware of these expressions of Dean Fleming's.



to Washington, the fact that he held only a temporary appointment should be brought to the notice of the public. The inevitable tendency of this unhappy suggestion was to imply that permanent members of the faculty had not a full right so to testify. The President's mind evidently reverted very sharply to the trouble which Brewster's previous testimony brought to him and the University, and at the moment, at least, he felt a strong desire to prevent a recurrence of that trouble. He consequently gave expression to this desire both by urging Brewster to decline the Commission's summons and by suggesting the notice to the public. This attitude of President Farrand's was, in the opinion of the committee, very regrettable. It was, doubtless, a natural attitude for an administrative officer desirous of preventing avoidable injury to the interests of the University, when, as he probably thought, nothing of moment was at stake on the other side. Its actual effect, nevertheless, was to give Mr. Brewster the impression that tenure of office in the University was incompatible with his testifying before the Commission, and also to deprive the Commission of the oral testimony of a witness whom the Chairman presumably believed to be in a position to throw light on certain material facts about the Colorado situation. It must be added that—as President Farrand could have gathered from Mr. Walsh's telegram—Mr. Brewster was not qualified to give first-hand testimony upon these facts, and that the information desired by the Commission could have been, and eventually, was, collected and presented by another witness.

In view of the sense of unfairness which the late notice would reasonably create in Mr. Brewster's mind; in view, especially, of the proposed communication to the public—with its deference to the feelings of one side only in the industrial controversy, and with its strong, though apparently unintended, intimation that Mr. Brewster's contemplated testimony was in some way incongruous with the holding of a *permanent* position in the University; in view of the references to the "obstacle" which Mr. Brewster's previous

testimony had been "in the effort to obtain additional support from the legislature;" in view, finally, of the surprise naturally excited in Mr. Brewster's mind by several of the President's statements—it appears quite conceivable that Mr. Brewster, especially in the state of feeling in Colorado at that time, suspected a causal relation between statements not intended by the President to be so related, and drew conclusions and inferences which the language of the President did not justify. That the interpretation of the President's meaning given by Mr. Brewster was not conveyed immediately and obviously by any single expression of the President seems to be implied by Mr. Brewster's admission, made both orally and in writing, to a member of the committee, that he "did not at once grasp the full significance of Dr. Farrand's *whole* statement," but that its meaning "impressed him more and more as he reflected upon it on the way home." Here were clearly present the psychological conditions for a possible misunderstanding: differing preconceptions as to the antecedent situation, on the part of the two persons concerned in the conversation; an extremely brief and hasty interview; a state of feeling provocative of suspicion on the part of one of the parties to the interview; the employment by the other of some expressions tending to give color to such suspicions; and a period of excited reflection on the part of the first, with opportunity for a reconstitution of the conversation in memory, and consequently for a wholly unconscious reading into it, as a *whole*, of a significance, and of relations between its parts, nowhere directly conveyed by the other speaker.

All these considerations, in their cumulative effect, seem to the committee to make it improbable that President Farrand, on May 7, made the threat attributed to him by Mr. Brewster; while they at the same time make it conceivable that Mr. Brewster should, in good faith, have erred in his interpretation of President Farrand's remarks. It must, in any case, be remembered that Mr. Farrand denies, upon oath, having made such a threat. It appears to the committee, in general, to be reasonable, when two gentlemen of

the highest reputation differ as to what was said by one of them, to assume rather that the hearer misapprehended the speaker's meaning than that the speaker took, in a matter of much importance to himself, a position—itself intrinsically improbable—which he unequivocally deposes that he did not take.

It follows that the second of Mr. Brewster's charges against the administration of the University of Colorado cannot be regarded as sustained.

## SUMMARY OF FINDINGS

The committee finds that the reason actuating the authorities of the University of Colorado in the spring of 1915 in not reappointing Professor Brewster, or in not making his temporary appointment permanent, was not, as charged, Professor Brewster's testimony before the United States Commission on Industrial Relations nor his utterances or opinions on industrial questions in Colorado. On the contrary, the committee is satisfied on the evidence that the University authorities had in mind, prior to the original appointment of Mr. Brewster, a plan for the reconstruction of the law faculty upon the payment of the Thomson bequest; that Professor Brewster's appointment was legally for one year only and was not intended to be renewed or extended beyond the time when payment of the bequest should make the reconstruction possible; and that this contingency occurred in the spring of 1915, when steps were taken to realize the planned reorganization, with the anticipated result of the non-reappointment of Professor Brewster.

The committee further finds that the evidence does not sustain the charge that President Farrand threatened Professor Brewster, in the conversation of May 7, 1915, with dismissal if the latter should go to Washington to testify a second time before the Industrial Commission. On the contrary, while the committee cannot, from the nature of the case, absolutely declare that the threat was not made, it finds that the evidence distinctly indicates improbability that such a threat was made.

These findings involve the exoneration of the authorities of the University of Colorado from any charge of infringement of academic freedom in their action with respect to Professor Brewster. The implied intimation of President Farrand in the conversation of May 7 that permanent members of the Colorado faculty do not in his opinion have full liberty in the performance of civic duties, while de-

plorable, was purely inferential and apparently unconscious; it was not presented as a principle that would be brought to bear in any concrete case. It appears reasonable to assume that the true attitude of President Farrand was expressed in December, 1914. When actually called upon by the governor of the State to commit an infringement of academic freedom, under circumstances that would have clouded the vision of an executive who might be inclined to put the immediate wants of his institution above principles of more remote value, we find President Farrand firmly acting for the ultimate welfare of the university, and asserting the principle that the conscientious utterances of a university professor in the performance of duties imposed upon him as a citizen may not be called in question by the administrative authorities of the institution with which he is professionally connected.

The committee finds also that Professor Brewster suffered substantial injury by action of the University of Colorado authorities, prior to the publication of his charges, in only one particular: the lateness of the date at which, after having received from an administrative officer some reason for anticipating reappointment, he was given notice that he would not be reappointed. It would seem that the University of Colorado—like many other institutions—has hitherto failed to adhere to what should be the universal rule in these matters—a rule reasonable in itself, which in this instance would have saved the University and all concerned much embarrassment and misunderstanding: namely, that all university teachers whose terms are about to expire should receive definite notice not later than three months before the end of the academic year whether their appointment is to be renewed.

Respectfully submitted:

PERCY BORDWELL,  
EDMUND H. HOLLANDS,  
J. E. LEROSSIGNOL,  
A. O. LOVEJOY,  
D. O. MCGOVNEY, *Chairman.*

## APPENDED DOCUMENTS

### *A. First Publication of Mr. Brewster's Charges.*

TO THE FACULTY OF THE UNIVERSITY OF MICHIGAN:

So many inquiries from friends in Michigan have reached me regarding economic and industrial conditions in Colorado that I send you the following statement of facts relating to one phase of the situation. No argument is made on the principle involved: the facts speak for themselves.

About three weeks before the beginning of the academic year of 1914-1915 Professor William H. Pease of the Faculty of the Law School of the University of Colorado met death by drowning. He worked with all three classes of the Law School and taught the following subjects: Contracts, Conveyancing, Elementary Law, Equity, Evidence and Real Property. It is just to him to say that he had resolved to continue this amount of work but one year more; he hoped that at the end of this current year some means might be found to relieve him of a part of this undue burden. With the three classes in "Real Property" alone he used Blackstone's Commentaries (Book II), Tiffany's Real Property, and Volumes II, III, and V of Gray's Cases. He did his work well, but often deplored the fact that he lacked time and strength to consider the subjects he taught as thoroughly as he wished to consider them. His character, his ability, and his indefatigable industry had won for him the esteem of all who knew him, but his friends realized that he was greatly overworked. When I was asked, a few days after his death, to join the faculty I declined to undertake all of Professor Pease's work: I mention this fact because I have been ridiculed by certain ignorant persons for not attempting to do what Professor Pease had been compelled, against his better judgment, to do.

When it was suggested that I take at least a part of the work, I reminded President Farrand that I had been of Counsel for the Striking Coal Miners during the Investigation of Conditions in the Coal Mines of Colorado which had been conducted by the Sub-committee of the Committee on Mines and Mining of the National House of Representatives; and I further reminded him that



my views on that subject were objectionable to many citizens of Colorado. He and the Dean of the Law School nevertheless requested me to take up the work in Real Property and Equity. I therefore undertook Real Property with the Senior and Junior classes and Equity with the Juniors and have never discussed the subject of the Strike in my work with the students.

On December 7 and 8, 1914, having been subpoenaed as a witness, I appeared before the United States Commission on Industrial Relations, then sitting in Denver, and testified concerning the Strike and the conditions arising from it.

No one has indicated any false testimony on my part, nor can any one do so. Governor Ammons, however, so President Farrand informed me, demanded, on one of the last named days, my immediate dismissal from the Faculty of the University. President Farrand refused to permit this dismissal, and soon afterwards (Dec. 16th), when he realized that I wished to resign in order to avoid disagreeable notoriety, urged me to set aside all personal considerations and to remain at my post and do my work for the sake of the University.\*

The Twentieth General Assembly of Colorado met on the first Wednesday in January, 1915, and was in session till April 10, 1915. In January also two new members of the University Board of Regents took office. These two are now the long-term Regents, their terms expiring in 1920. One of these new Regents is Mr. Clifford C. Parks who will not deny that he is a stockholder in the Rocky Mountain Fuel Company, one of the three Coal Companies chiefly involved in the Strike. Mr. Parks is a man of great influence, wealth, and political prominence, and his antipathy to the miner's Union is well known.

On May 7, 1915, President Farrand told me that when he met the Legislative Appropriation Committee on behalf of the University my attendance before the Commission on Industrial Relations had been the greatest obstacle he had to contend with. Two weeks later, on May 21, he told me he had not used the expression "greatest obstacle" in this connection but "a very great obstacle."

I had occasion to talk with President Farrand on May 7 because I had on that day received a telegram from the Chairman of the Commission on Industrial Relations asking me if I could

\* A few paragraphs not relevant to the main issue are here omitted.

go to Washington, arriving there not later than Monday, May 17, to testify concerning the appointment of Judge Hillyer and the efforts of John R. Lawson's attorneys to secure impartiality, together with anything else throwing light upon his trail, and to testify also concerning a sermon by Rev. Newell Dwight Hillis on the Colorado Coal Strike, containing, as all will admit, grave misstatements of fact and erroneous inferences.

As I was asked to appear in Washington on Monday, and as Friday afternoons and Saturdays are not class days, I could have arranged my work with the students (by trading hours with another member of the faculty, as is often done), so as to have lost no recitation time; but, owing to criticisms which had been made concerning my testifying before the Commission in December, it seemed best to submit the Chairman's telegram to Dr. Farrand. He read the message and said that my going to Washington was a matter for me to decide, but that if I went my connection with the University must end; and he told me of his embarrassment before the Appropriation Committee of the legislature. I stated that I saw what I ought to do in the circumstances, and that as it would be difficult to obtain a substitute to continue my work with the students, while someone else could go to Washington, I would not go. He said "that will be much more comfortable," adding that he must also say that if I did not go, but remained at my work in the Law School, I must not regard my remaining as entitling me to a reappointment and that the Regents were contemplating a re-organization of the Law School. And in connection with his remark about the Appropriation Committee he intimated that the Regents, as well as the Committee, regarded me as *persona non grata*. I asked if my work had been satisfactory, and he answered "eminently so," and expressed his appreciation of my "stepping in," etc.

On May 8 I wired the Chairman of the Commission that my duty to the University prevented my compliance with his request, and that my appearance before the Commission in December had embarrassed the University before the Legislative Appropriation Committee.

My conversation with Dr. Farrand on May 7 was rather brief, and there was so much indefiniteness about the situation that on May 11 I wrote him requesting that for the sake of my family, if for no other reason, the real cause for what practically would amount to my dismissal be stated.

On May 17 I received from him a request to confer with him. We met on May 21. He spoke of the contemplated re-organization of the Law School. I asked him whether the Regents had considered that suggestions as to re-organization from one who had been long connected with the Law Department of the University of Michigan might not be valuable, and he answered that he did not know. When I asked him if he had considered this he made no answer.

He stated that two Regents said they had been spoken to and written to by many persons suggesting that I be not retained. At the same time he insisted at great length that he was absolutely uncontrolled by pressure of this sort; and he said he had stood by me and befriended me in December. I then reminded him that he had stood by the University in December and not by me, and that he had then made a special point of the principle that the University should be first considered, and that all personal considerations should be disregarded.

He spoke of needing a younger man; and I reminded him of the years required for the study of the law of Real Property; that my health was excellent; that I had done my work satisfactorily.

It appeared that the matter of my retention had been discussed and determined some time in April at a meeting of the Regents, yet had it not been for the receipt of Mr. Walsh's telegram on May 7, which led to our conference on that day, I would have had no intimation of the real state of the matter: and apparently no direct and frank statement on the subject was intended, as none has yet been made.

During President Farrand's explanation of his position he stated that Mr. A. A. Reed, a practicing lawyer of this city and one of the members of the Law Faculty, had advised against my reappointment. The sympathy of this gentleman with the Coal Mine Operators is well known; he has been in politics to some extent; he has been a banker, and as a lawyer he represents considerable property interests; his former law partner is at present one of the assistant Attorneys General of the State and is engaged in a vigorous prosecution of former strikers; Mr. Reed was one of the three almoners appointed to distribute the fund of \$100,000 recently donated to the State of Colorado by the Rockefeller Foundation.

Up to the time of the April meeting of the Regents, I had, during the academic year 1914-1915, done nothing tending to in-

dicating my views on the Strike troubles of Colorado except to testify before the Commission in December; and I may add that doubts that may have existed in anyone's mind as to the accuracy of my facts and the validity of my opinions as then expressed must have been dispelled by what has appeared since in letters and admissions of the Operators and from disclosures concerning some officers of the Colorado National Guard. Dr. John Chase, Adjutant General of the Guard, is a member of the medical faculty of this University: both his pronounced bias towards the operators and his military incompetency have been demonstrated.

On May 3 occurred the conviction of John R. Lawson of murder in the first degree. I know him very well and being confident of his innocence, I telegraphed him as follows:

"Unbelievable. Urge coolness among friends. Legal steps will annul injustice."

This private telegram to a friend got into the press, and furnished my enemies with a new weapon; but the message had, of course, no bearing upon the action of the Regents at their April meeting.

Since May 3, at the request of the Justice League of Colorado (an organization not composed entirely of Union men and women) I have, on May 16, May 23, and May 29 spoken publicly on the subject of "*Justice*." I have done this not for the purpose—as has been charged—of influencing courts by arguments out of court, but simply for the purpose of expounding some of the fundamental principles upon which civil society is based.

In addressing citizens who have assembled in accordance with the Bill of Rights to remonstrate against grievances, I have emphatically asserted that no meeting ought to be held for the real or apparent purpose of influencing any Court; that judicial questions must be considered in Court. I have, however, publicly deprecated the trial or hearing of any causes before a judge who has acted as attorney or counsel for one of the real parties in interest. This I believe to be my duty as a citizen and a lawyer.

In conclusion I will say that, while the Regents of this University were under no legal obligation to retain me in office, their failure to do so, is in the opinion of many just members of the Faculty of this University, equivalent to a dismissal; and further, that, as my work has been "eminently satisfactory," the only causes for this dismissal are the facts that I testified to the truth before the Commission on Industrial Relations and that I ap-

peared as Counsel for the Miners' Union before the Congressional Committee in February and March, 1914.

I have not asked, nor have I wished, to be retained in the service of this University, but I have asked that the true reason for dropping me be stated.

JAMES H. BREWSTER.

*Boulder, Colorado, June 17, 1915.*

### *B. Reply of President Farrand*

TO THE EDITOR OF *The Boulder Morning News*.

SIR: My attention has been called to a printed statement by James H. Brewster regarding his connection with the University of Colorado. I understand that its publication has caused some misapprehension regarding the facts in the case and I therefore beg to submit a brief statement of the situation in so far as it relates in any way to Mr. Brewster.

On August 20, 1914, Prof. William H. Pease of the faculty of the school of law of the University of Colorado met death by drowning. As the university was to open on September 14, a critical situation was presented. It was decided to make such temporary arrangements for Professor Pease's work as might be possible until the chair left vacant by his death should be permanently filled. There being no one man available for the purpose it was decided to distribute the work temporarily among three men—James H. Brewster, Frank L. Moorhead and Fred G. Folsom, the last named being already an instructor in the school of law. Mr. Brewster undertook the heavier portion of the work, namely that in real property and equity. In recognition of that fact and also of his previous academic service in the University of Michigan he was appointed "acting professor of law" in the University of Colorado for the academic year 1914-1915, and was assigned to a seat in the faculty of law and in the university senate "during the period of his service as acting professor."

There was not at that time, nor has there been since, any intention of recommending Mr. Brewster for permanent appointment, nor, so far as I am aware, has any intimation whatever been given to him that such action was contemplated.

The temporary arrangement thus made appearing reasonably satisfactory, the dean of the school of law was requested to search for the best available man in the country to fill the chair in ques-



tion. He was instructed to proceed carefully and without haste even though it might be necessary to prolong the temporary provision beyond the year 1914-1915. This attitude of the administration was influenced by the fact that intimation had been received that the Olivia Thomson bequest for the endowment of a chair of law in the university would probably be paid by the executors within that or the following year. The regents of the university had planned a reorganization and strengthening of the school of law upon receipt of that endowment.

The temporary provision for the courses of Professor Pease operated successfully and the work proceeded smoothly during the year.

On March 16 the regents were informed by the executors of the Thomson estate that the bequest mentioned above would be paid over early in May. The dean of the school of law was at once informed of that fact and requested to prepare a plan of reorganization of the school for submission to the regents—a plan which should embrace the filling of the new chair created by the Thomson endowment as well as the vacancy caused by the death of Professor Pease.

Such a plan was prepared in consultation with the administration of the university. It followed the lines long contemplated and did not include the appointment of Mr. Brewster or Mr. Moorhead to permanent positions in the school. This plan was presented to the board of regents on April 30 and approved. The president was instructed to proceed to carry out its terms. This the administration is now doing.

At no time has Mr. Brewster been considered seriously for permanent appointment in the university.

At no time has his name been discussed officially except incidentally in connection with the temporary arrangements for carrying on Professor Pease's work.

At no time, so far as I am aware, has the slightest intimation been given to Mr. Brewster that he was being considered for permanent appointment.

Mr. Brewster's position in the industrial situation in Colorado has not been a factor in determining the university's attitude. Had he never taken any part in that situation he would not be considered an available man for a permanent professorship in the university.

The president has never at any time in any way been approached



by any regent with regard to Mr. Brewster's connection with the university either in the way of approval or disapproval. So far as I am aware, Mr. Brewster's views or his position in the industrial situation have never been the subject of discussion by the board of regents, except unofficially in the course of general conversation following the endorsement of the plan of reorganization of the school of law proposed by the administration at the meeting on April 30.

To the total misapprehension of the situation evinced by Mr. Brewster's public statement and the numerous inaccuracies therein contained no allusion need be made except in one instance. Referring to a conversation between Mr. Brewster and myself on May 7 regarding a request that he appear in Washington before the commission on industrial relations, Mr. Brewster says that I told him that his going to Washington was a matter for him to decide but that if he went his connection with the university must end. This statement is untrue. What I told Mr. Brewster was that if he decided to appear in Washington I thought it would be wise to issue a statement indicating the fact that his connection with the university was a temporary one and that it would naturally terminate at the end of the current academic year. My reason for that feeling was the wide misapprehension of his relation to the university caused by the inaccurate publicity attending his previous public appearances.

In conclusion I would state that there is no question whatever of "dismissal" involved in Mr. Brewster's case. His general qualifications for appointment to a chair in the university are not those for which the responsible authorities are seeking.

Very truly yours,

LIVINGSTON FARRAND.

*C. Mr. Brewster's Reply to President Farrand*

TO THE EDITOR:

A statement by Dr. Farrand dated July 5, 1915, and first published in the evening papers of July 7, requires brief notice from me.

He says at the end of this statement that my "general qualifications for appointment to a chair in the university are not those for which the responsible authorities are seeking." Exactly what knowledge these present "responsible authorities" possess

of the qualifications requisite for work in law school, or of my qualifications for such work, I do not know, but a proper self-respect and a regard for the truth justify me in quoting from a letter of former Regent Julius C. Gunter, a man who does possess knowledge of such matters. Judge Gunter wrote me January 7, 1915, as follows: "Such favorable reports have come to me, through Dr. Farrand and others, of you and your work, that I have been and am desirous of meeting you. Dr. Farrand tells me you are working too hard and will break your health down again. I earnestly hope that you will not persist in this. It will simply shorten your usefulness and it seems to me there is no reason for such excessive labor with the superb equipment which you bring to your chair."

Such words from such a man, written after four months of my work here, far outweigh all unfair criticisms or slurs which emanate from those who know little of legal education. The amount of work that I have done without harm during the past two years is sufficient to demonstrate that there is no danger of my breaking my health down. Moreover, brushing aside false modesty, I ought to say that I am aware from the most authentic sources that those qualifications which are not what "the responsible authorities are seeking" have won for me the esteem of the mature and earnest students who have attended the law school this past year. The knowledge of the esteem of these men—superior men as they are—will long remain in my memory as the gratifying circumstance of my work here. Nor can I, in justice to the authorities of the University of Michigan, let this slur on my professional standing pass without stating that there, where I worked fourteen years, my name is still kept on the faculty list as one on leave of absence, and that my salary was continued for two years after my coming to Colorado, at the end of which time I insisted that this generous recognition should be discontinued.

Dr. Farrand says that my version of our conversation of May 7 "is untrue." His memory is strangely defective. On May 21, when he averred that he had not told me (on the 7th) that my going to Washington to testify must end my connection with the University, I reminded him of the substance of our first talk—namely: that, when he said my connection with the University must end if I went to Washington, I stated I would remain in justice to the students, and that he then said that my remaining must not be considered as entitling me to a reappointment, and

spoke of his bother with the appropriation committee. On reminding him thus of the substance of our first talk, I asked him why it was that my *remaining* with the University, was remarked upon if he had not suggested the alternative of my *leaving* it. To this pertinent question he had no answer—and there is none, except an admission on his part that my statement is true. In speaking of my being an obstacle before the appropriation committee he said: "You may call it venal if you will, you may call it corrupt politics, but there's the fact." I think he did speak of issuing, if I went to Washington, a statement that I was not permanently employed, but the absurdity of the issuance of such a statement when a faculty member is called upon to testify before a public commission is so apparent that in fairness to his office he ought not to mention it. He says his reason for this was "the wide misapprehension of his (my) relation to the University caused by the inaccurate publicity attending his (my) previous public appearances;" yet my one and only previous public appearance while a member of the faculty was when I testified as a subpoenaed witness before the Federal Commission last December.

As to his statement that no intimation was given me that any permanent appointment was considered, it is a fact that the Dean of the Law School repeatedly spoke to me of what could be done in the future, and at one of our earliest conferences regarding my taking the place he mentioned the fact that the Thomson bequest would be available for a reasonable salary within two or three years; these various and numerous suggestions cannot, of course, have been matters of pretense on the Dean's part.

During the last week in October, about seven weeks after my first talk with the Dean and Dr. Farrand, and almost the same length of time after I began my work, I received a note from the latter stating that I had been appointed "Acting Professor." I was not informed of this, as he intimates, at the outset of my engagement. The title, considering my experience in teaching law, rather amused me, but I accepted it as I had gone these weeks into the work: there is, of course, no question as to the *legality* of the action of the "responsible authorities."

The statement of facts in my letter of June 17 to the Michigan faculty is true; I made that statement because several members of the Colorado faculty told me a statement should be made, and because I agreed with them; and I made it to my friends at Michi-

gan because of inquiries from them concerning the Colorado situation.

Personally the matter of my retention here concerns me little; the principle involved, however, ought to concern many persons a great deal.

Very truly yours,

JAMES H. BREWSTER.

*Boulder, Colo., July 8, 1915.*

*D. President Farrand's Request for an Inquiry*

July 9, 1915.

PROF. JOHN DEWEY,

New York City,

*Dear Professor Dewey:*

A situation has arisen here to which I find considerable inaccurate publicity has been given. As it seems to touch upon the general question of academic freedom, I am writing to you as President of the Association of University Professors to invite such investigation of the matter as may seem best to you. I inclose a copy of a printed statement issued by Mr. James H. Brewster, who has been temporarily filling a vacancy in the School of Law in this University during the year, which has given rise to considerable misapprehension. As there was practically no misunderstanding here, I had not intended making any public statement until I found that the situation was being discussed outside and even in some of the eastern papers. I have, therefore, given to a few journals a brief statement of the facts in the case, of which I enclose a copy. I have not attempted to correct a considerable number of inaccuracies and errors in Mr. Brewster's statement, although I shall of course be glad to furnish whatever information or statements you may desire or think worth while to call for.

I do not wish to lay undue stress on the case but I am very sensitive about the imputation that academic freedom is in any way inhibited in this University and naturally deprecate any impression going abroad which is not warranted by facts.

If consistent with the purposes of your Association, I would greatly appreciate a thorough investigation of the situation.

Sincerely yours,

(Signed) LIVINGSTON FARRAND.

*E. Deposition of Mr. James H. Brewster*

STATE OF COLORADO, }  
 COUNTY OF BOULDER, } ss.

James H. Brewster, being duly sworn deposes and says that he resides in Boulder, Colorado, and has resided in said City since June, 1910; that during the academic year 1914-15 he was a member of the faculty of the Law School of the University of Colorado; that on May 7, 1915, he showed Dr. Livingston Farrand, President of said University, a telegram from the Chairman of the United States Commission on Industrial Relations requesting affiant to appear in Washington not later than Monday, May 17, 1915, to testify before said Commission; that he showed said telegram to Dr. Farrand because when affiant had testified before said Commission in Denver on December 7 and 8, 1914, Dr. Farrand had informed affiant that the then Governor of the State of Colorado, Elias M. Ammons, had demanded that affiant be at once dismissed from the faculty of the University of Colorado; that on said May 7, 1915, President Farrand, on reading said telegram, said to this affiant in substance that the going or not going of affiant to Washington was a matter for affiant to determine as a personal matter, but that if affiant decided to go, as requested in said telegram, his connection with the University must end, and that affiant had been the greatest single obstacle that he, said President, had had to contend with when he appeared before the Legislative Appropriation Committee on behalf of the University; that affiant then stated to Dr. Farrand that affiant, in the circumstances, thought he should remain and do the work with his students which had been planned out in his course for the few remaining weeks of the year rather than to end his connection with the University at an earlier time; that Dr. Farrand said "that will be much more comfortable," and added that affiant's remaining at his work must not be construed as putting the University under obligations to reappoint him for the following year; to a question put by affiant to Dr. Farrand as to whether affiant's work had been satisfactory, Dr. Farrand replied "eminently so."

Affiant further says that he herein has given briefly, though in substance, the facts immediately connected with his interview with Dr. Farrand on May 7, 1915, and that other facts bearing upon the matter are set forth in two exhibits hereto attached, one



marked Exhibit A, being a statement by affiant, dated June 17, 1915, and addressed to the Faculty of the University of Michigan; and the other marked Exhibit B, being a letter signed by affiant, dated July 8, 1915. [Appended Documents A and C.]

Affiant says that the statements of fact made in said attached exhibits are true. Further he says that he makes this present affidavit at the suggestion of an officer of "The American Association of University and College Professors," and is ready to make any further statement that may be requested by any officer of said Association, but that he would much rather prefer to make any statement before such officer in the presence of Dr. Farrand.

(Signed) JAMES H. BREWSTER.

*Subscribed and sworn to before me this 10th day of July, 1915.*

My commission expires December 18, 1918.

(Signed) S. ADA TAYLOR,

*Notary Public,*

*Boulder County, Colorado.*

[SEAL]

*F. Questions submitted to the President of the University of Colorado (Dr. Livingston Farrand) by the Secretary of the American Association of University Professors, in Relation to Certain Statements Published by Mr. James H. Brewster, with Dr. Farrand's Replies Thereto.*

(1) Is it a fact that, as intimated by Mr. Brewster, Governor Ammons, after learning of Mr. Brewster's testimony before the Federal Commission on Industrial Relations at its sessions in Denver, demanded that Mr. Brewster be at once dismissed from the faculty of the University of Colorado?

It is a fact that following Mr. Brewster's testimony before the Federal Commission, Governor Ammons called me on the telephone and made strong objection to the character of Mr. Brewster's testimony. He regarded it as most unfortunate that anyone connected with the University should make such statements as Mr. Brewster had made and urged that his services should be dispensed with. Governor Ammons did not demand that Mr. Brewster should be discharged from the service of the University, if by the word "demand" is implied an assumption on Governor Ammons' part of jurisdiction in the matter.

(2) Will President Farrand kindly state the substance of any communication or communications received by him from the then



Governor of Colorado, during December, 1914, in relation to the above-mentioned matter?

I did not receive any communication from Governor Ammons with regard to the matter in question, other than in the conversation referred to above.

(3) Will President Farrand also give the substance of his replies to any such communications received from the Governor?

In reply to Governor Ammons I stated that while I had not seen a transcript of Mr. Brewster's testimony, I did not regard it as possible that anything which he might have said would be a matter for academic discipline. I reminded Governor Ammons that the discharge of a member of a university faculty for anything which he might say in his capacity as a citizen was a very serious matter and that the preservation of academic freedom was one of the first responsibilities of any university. I said, further, that while I would naturally take occasion to read Mr. Brewster's testimony, I had no idea that it would contain any matter which could call for action by the Board of Regents of the University.

(4) Was the testimony of Mr. Brewster before the Commission, or his known attitude on the industrial controversy in Colorado, given by any member of the legislature, or other public official, as a reason for opposing the University appropriation bills during the 1915 Session?

So far as I can recall, no member of the Legislature or other public official ever spoke to me personally with regard to Mr. Brewster in any way during the 1915 Session of the Legislature. On the other hand, it was reported to me at various times by friends of the University that there were members of the Legislature who were outspoken in their denunciation of Mr. Brewster's public statements, who objected to his connection with the University and who were luke-warm in their support of the University or opposed to it on his account.

(5) Was the appointment of Mr. Brewster to a permanent position in the faculty of Law in the University at any time contemplated during the academic year 1914-1915?

Certainly not by the Board of Regents or myself, nor, so far as I am aware, by anyone connected with the University in a position of responsibility for recommendation or appointment.

(6) Was President Farrand's decision not to recommend Mr. Brewster for permanent appointment in any degree due to Mr. Brewster's testimony before the Federal Commission, or to his attitude upon the industrial controversy, or to his having served as attorney for trade-unions?

No.

(7) Was it definitely President Farrand's purpose, before May 7, 1915, not to recommend Mr. Brewster for further appointment?

Yes.

(8) Did President Farrand express this purpose to any other person before that date? If so, to whom?

I do not recall definitely discussing the matter except with the Dean of the School of Law and one or two members of the Board of Regents in a casual way until March, 1915. It is not at all unlikely that I may have made such statements in conversation with officers of the University earlier in the year, since there was never any intention of recommending Mr. Brewster for permanent appointment and I should not have hesitated so to state to anyone concerned with University affairs. I have always assumed that the temporary nature of Mr. Brewster's appointment was generally understood by those in any way familiar with University affairs.

While hoping that the vacancy which Mr. Brewster was filling in part might be permanently supplied before the beginning of the academic year 1915-1916, I did not press vigorously in the matter until March, 1915. Up to that time I should not have been greatly concerned if the temporary arrangement in force during 1914-1915 had been continued for another year, and I have no doubt, had such a course been necessary, that Messrs. Brewster, Moorhead and Folsom would have been asked to continue their temporary service until a permanent appointment should be made.

The change in my attitude was due to the receipt of information that the Thomson bequest for the endowment of a professorship of law would be paid to the Regents of the University in May, 1915. The receipt of this bequest would enable the Regents to proceed to reorganize and strengthen the School of Law as had long been contemplated. It seemed to me wise that this reor-

ganization should be consummated before the opening of the academic year 1915-1916, and that the permanent filling of the vacancy caused by the death of Professor Pease, part of whose work Mr. Brewster was temporarily carrying, should be accomplished. In this view the Dean of the School of Law concurred and we proceeded to make plans accordingly. At this stage I consulted with Professor Reed of the School of Law to obtain his advice on the general plan. His opinion concurred with that of the Dean and of myself. I do not recall discussing the matter with anyone else until the meeting of the Board of Regents held on April 30, 1915. At that time the plan was presented and approved. Mr. Brewster's relation to the situation was incidentally mentioned at that meeting. I do not recall discussing the matter further until May 7, when I informally communicated to Mr. Brewster the plan which the Regents had approved regarding the School of Law.

(9) Did President Farrand, in his interview with Mr. Brewster on May 7, 1915, say to Mr. Brewster that if the latter decided to go to Washington to testify again before the Industrial Relations Commission, "his (Brewster's) connection with the University must end?"

No. Such a statement by me would have been impossible. It is entirely opposed to my whole conception of academic freedom and procedure.

(10) Did President Farrand, during this interview, expressly or by implication, give Mr. Brewster reason to believe that his going or not going to Washington to testify would affect his prospects for further appointment in the University?

No.

(11) Did President Farrand at this interview state to Mr. Brewster that his further appointment was not in any case contemplated.

Yes.

(12) Will President Farrand give the substance—and so far as he recalls it, the exact language—of his statement to Mr. Brewster on May 7?

On the evening of May 7 Mr. Brewster called to see me and showed me a telegram from Chairman Walsh, of the Federal Com-

mission inviting him to come to Washington to testify before the Commission, and Mr. Brewster asked what my attitude was in the situation. I remember distinctly that, after reading the telegram carefully, I stated that the question of his going was one for him to decide, but that before discussing the matter further I wished him to know exactly what the Regents had in mind with regard to the School of Law and their plans for its reorganization. I then told him in some detail the plan approved by the Regents at their meeting a week previous. I stated that this plan did not involve inviting Mr. Brewster to continue in the service of the University beyond the end of that academic year. I told him that we appreciated his faithful and efficient service during the year. I stated that I regarded it as a prime consideration that the permanent incumbent of the chair vacated by the death of Professor Pease should be a young and vigorous man, and in this opinion the Dean and Board of Regents concurred. I further stated that we should proceed actively to find an available man for that chair. The conversation then turned to the question of Mr. Brewster's acceptance or declination of the invitation to go to Washington to testify before the Federal Commission. I reiterated that it was a matter for him to decide. We discussed the fact that it was approaching the end of the university year, that the final examinations were near and that it was an awkward time for an instructor to be absent. Mr. Brewster felt that his work could be provided for without serious detriment to his classes, and I did not lay much stress in our conversation upon that point. I told him that I regarded the publicity which had attended his former testimony as detrimental in its effect upon the University. In the inflamed condition of public sentiment in Colorado at that time it was exploited in a way which I regarded as unfortunate. His connection with the University was made prominent in the inaccurate publicity which resulted and the institution was drawn thereby into a controversy, and an attitude attributed to the University as an institution, which I regarded as unwarranted and unfortunate. In further discussion of this point and in illustrating the prejudice aroused by the testimony, I cited the feeling expressed by members of the Legislature and reported to me during the legislative session of 1915. I used some expression to the effect that his public statements regarding the industrial situation had been an obstacle in the University's effort to obtain additional support

from the Legislature. I did not, as I recall it, lay any stress upon this and mentioned it incidentally as an illustration and matter of interest at the moment.

I stated that in view of the inaccurate publicity and the involvement of the University at the time of his previous appearance before the Federal Commission, I thought it would be desirable, in case he decided to go to Washington, that a statement should be issued indicating the temporary nature of his connection with the University and that that connection would naturally terminate at the end of the academic year. Mr. Brewster expressed doubt as to what he would do in the matter of going to Washington. Toward the end of the conversation I stated that if he declined to go to Washington it must not be construed as affecting in any way the plans for reorganizing the School of Law. Just before Mr. Brewster left, he remarked that while he was not decided as to his course he thought probably it would be undesirable for him to go. I said that if he did so decide it would undoubtedly be more comfortable for the University.

(13) Was it President Farrand's intention, by his expressions to Mr. Brewster on May 7, to dissuade the latter from going to Washington?

As implied in my answer to Question 12, I think there is no doubt that my attitude in the conversation of May 7 was unfavorable to Mr. Brewster's acceptance of the invitation to testify in Washington. Two somewhat antagonistic ideas were prominent in my mind at the time—one was the conviction that his appearance in Washington would be detrimental to the University and the other the wish to avoid the exercise of influence which might seem as in any way an interference with an individual's freedom as a citizen.

(14) If so, for what reasons did President Farrand then regard Mr. Brewster's going to Washington as undesirable?

Two reasons were prominent, one that Mr. Brewster's absence at that particular time would be awkward for the School of Law. This was the less important consideration. The second was the character of the publicity and the misinterpretation which had attended Mr. Brewster's previous testimony before the Commission. In the previous hearing statements made by Mr. Brewster were exaggerated and subjected to distortion. His connec-



tion with the University was widely featured and his reported attitude imputed to be that of the faculty in general, and particularly of the School of Law. The result of this inaccurate publicity was a tendency to draw the institution into a controversy most complex in its terms and in a way which was not, in my judgment, helpful to a solution of the problem. I foresaw that if he testified in Washington there was likely to be a renewal of this state of affairs and I preferred that it should be avoided if possible.

15. Will President Farrand state specifically whether, on May 7, he used to Mr. Brewster the following language, or any language of equivalent import: "Your remaining at work [i.e., not going to Washington] must not be construed as putting the University under obligations to reappoint you?"

As stated in my reply to Question 12, I used such language or its equivalent.

I hereby certify that the foregoing statements are true and accurate to the best of my knowledge and belief.

LIVINGSTON FARRAND.

*Subscribed and sworn to this 16th day of October, 1915.*

My commission expires April 23, 1917.

FRANK H. WOLCOTT,  
Notary Public.

*Supplementary Remarks.* With regard to the foregoing situation, I would like to state that it was very simple in its elements and did not involve the question of academic freedom in the slightest degree. Briefly, the Regents of the University were faced by a sudden vacancy created by death. They made the best temporary arrangement possible. It was distinctly stated that such arrangement was temporary and for the year only. In looking over the field for available men to fill the vacancy various qualifications were naturally kept in mind. With regard to Mr. Brewster's availability, there was no question of his professional qualifications. His service during the year was entirely satisfactory. There were other general qualifications in the minds of the Regents which Mr. Brewster did not possess, notably, that of youth. This consideration was decisive in my mind from the beginning. Recurring again to the question of academic freedom, I believe firmly, and I am sure the Regents of the University of



Colorado agree, that the freedom of members of the University Faculty in all the rights of citizenship must be strictly maintained and safeguarded. I cannot conceive of the Board of Regents discharging a professor because sentiments expressed by him publicly did not accord with the economic and political views of the majority of the people of the State or of the members of the Board.

I have never been able to formulate a rule to govern liberty of expression on the part of members of a university faculty. The ordinary standards of decency and good taste are about all one can have as a guide. The degree of intemperance in speech which would be incompatible with a teaching position in a university, I am not able to define, nor have I ever seen it satisfactorily defined.

LIVINGSTON FARRAND.

*G. Telegram from Chairman Walsh to Mr. Brewster, and Mr. Brewster's Reply.*

Washington, D. C., May 7.

PROFESSOR JAMES H. BREWSTER,  
Boulder, Colo.

Could you confer with Horace N. Hawkins get full statement of creation of new Judicial district appointment of Judge Hillyer and efforts on behalf of Lawson's attorneys to secure impartiality together with anything else throwing light upon the trial and come to Washington arriving here not later than Monday May seventeenth to testify before commission on industrial relations would also like your testimony covering Newton Dwight Hillis speech affidavits filed in Lawson case on motion for change of venue would probably give you all the information could allow you approximately two hundred dollars for expenses please wire answer.

FRANK P. WALSH,  
Chairman.

May 8, 1915, 11 a.m.

TO HON. FRANK P. WALSH,  
U. S. Commission Industrial Relations,  
Washington, D. C.

Regret exceedingly duty to University prevents compliance your request. My appearance before Commission in Denver em-

barrassed University before legislative appropriation Committee. Am in honor bound to complete year's work without further embarrassment. Shall sever all University connection early in June. Suggest Ex Congressman John Martin of Pueblo. Hawkins concurs. Letter follows.

JAMES H. BREWSTER.

*H. Letter of Mr. Brewster to Chairman Walsh*

Boulder, Colorado,  
May 9, 1915.

HON. FRANK P. WALSH,  
Chairman U. S. Com. on Industrial Relations,  
Washington, D. C.

*My dear Sir:—*

I received your telegram of 7th inst. early in the evening of that day. I wished to comply with your request. As you asked me to appear on Monday 17th inst., and as Friday afternoon and Saturday are not recitation periods, I could easily have arranged my work for an absence of three or four days by trading hours with other members of the law faculty. But it seemed to me that before wiring you, I had better see President Farrand.

I therefore showed him your telegram at about eight o'clock that same evening. He was somewhat hurried as he had a social engagement. But he carefully read your telegram and then said it was a matter for me personally to decide, but that if I complied with your request I must consider my connection with the University at once at an end; that he must consider the University first: that my appearance before your Commission in December last had been the greatest obstacle with which he had had to contend when he appeared recently before the Legislative Appropriations Committee: that he had told the Committee that he would not be dictated to as to appointments or removals of members of the faculty: that nevertheless, he must now say to me that the needs of the University were such that if I complied with your request the University would suffer. (By the way no one, so far as I know, has pointed out wherein my December testimony was untrue.)

I replied that I saw what my present duty was: that there was no one who could now take up and finish my work with the

students for the few remaining weeks of the year, and that I would wire you that I could not get away. He then said "that will be much more comfortable," but he also said that if remained I must distinctly understand that the University must be considered as under no obligations to me and that I must not expect to be continued in office. I asked if my work had been satisfactory and he replied "eminently so" and that "we appreciate very much your kindness in stepping in and filling the vacancy caused by Professor Pease's death." . . . \*

Pertinent facts are briefly as follows: the Dean of the Law School has repeatedly expressed great satisfaction with my work; he has spoken of some changes I may make "next year" in text books, if I think best; recently he suggested painting my name on my office door: yesterday a member of the faculty said to my wife "the students adore him"—meaning me; the University of Michigan wishes me to return there at more than double my salary here—if physicians advise that I can stand that climate: my subjects are chiefly the more difficult parts of Real Property law in which I have specialized for years; the Regents can only with difficulty get a qualified man to take this work at what they can afford to pay. But my removal has been demanded by politicians, certain editors, and others, for no other reason than that I have stood for a square deal for working men.

The authorities do not intend to reappoint me, and are probably going to give as a reason that they want a younger man. I am more vigorous now, despite the efforts of my enemies here to worry me to death, than a great many members of the faculty—be they old or young in years. My doctor tells me I am practically free from tuberculosis; there are a number of the faculty here who are not free from it.

This is not a personal matter—there is a principle of some importance at stake.

My friends among labor organizations have urged the following procedure: the Regents will be asked either to reappoint me or state the reason for not doing so. They can truthfully give no other reason for not reappointing me than that my views on industrial conditions do not coincide with those of the holders of the purse-strings. Should they reappoint me, I shall pursue such a course as seems right.

\* Paragraph omitted not bearing upon the conversation of May 7.

You may show this to members of the Commission, if you care to; otherwise kindly keep it to yourself for the present.

I remain,

Very truly yours,

JAMES H. BREWSTER.

*I. Dean John D. Fleming's Statement, made to the Secretary of the Association, September 29, 1915*

Dean Fleming makes the following statement with regard to the case of Mr. Brewster:

It was the expectation of the Dean of the Law School that Professor Brewster would probably be reappointed for the year 1915-16, if the Thomson bequest should not become available in time for use during that year, though Dean Fleming had no official notification to that effect from the President or the Board. Believing that the bequest would not be so available, Dean Fleming talked with Mr. Brewster with reference to his plans for the work of the ensuing academic year. It was at no time the expectation or wish of Dean Fleming that when the Thomson bequest should be paid, and the permanent organization of the work of the Law School on a new basis should become possible, Mr. Brewster would be appointed to one of the professorships then to be created. Contrary to Dean Fleming's expectation, it became known early in March, 1915, that the bequest would be immediately paid into the University. At this time definite plans for the reorganization of the School, and the filling of new positions, began to be made; and the appointment of Mr. Brewster was not therefore considered. It has, for a number of reasons—including what was believed to be Mr. Brewster's delicate state of health—never seemed advisable to Dean Fleming that Mr. Brewster should be appointed to one of the permanent positions in the Law School.

The above is a correct statement.

(Signed) JOHN D. FLEMING.

*J. Questions Submitted by Chairman McGovney of the Sub-Committee of the American Association of University Professors to Dean John D. Fleming of the Law School of the University of Colorado, and the Latter's Answers Thereto.*

(1) At the outset of your correspondence with Professor Brewster some time in August, 1914, with a view to his filling the vacancy caused by the death of Professor Pease, were you distinctly instructed by President Farrand or the Board of Regents to engage Professor Brewster for temporary employment only?

I was instructed by President Farrand to open negotiations with Professor Brewster with the view to his partially filling the vacancy caused by the death of Professor Pease. This was about the last week in August 1914, and it was distinctly understood that any engagement was to be temporary only.

(2) Will you please send me copies of all letters, telegrams or other written communications sent by you to Professor Brewster with reference to his proposed appointment?

Professor Brewster was in the mountains; my first communication with him was by telephone.

(3) In your oral communications to Professor Brewster, prior to his accepting a position, did you *distinctly* tell him that he was to be "acting" professor only?

I do not recall using the words "acting" professor. My first request of him by 'phone was to ask him to "help us out" by taking part of Professor Pease's work—if his health permitted.

(4) Did you have any knowledge that this was to be his title prior to the note so stating sent by President Farrand to Professor Brewster in the latter part of October, 1914?

I probably did. Prior to the note I had discussed the question with President Farrand of Professor Brewster's status with reference to the University "senate"—whether he should be considered a member of the senate or not.

(5) What was said by you to Professor Brewster either orally or in writing, in the course of the negotiations above referred to about the probable duration of his appointment?



As stated above, I first telephoned to Professor Brewster from Boulder; he was in the mountains "across the range," and communication was difficult. I asked him if he could "help us out" in our emergency by taking part of Professor Pease's work, especially the classes in real property, and further requested that, if doubtful, he give the work *a trial* at any rate. He replied that he expected to return to Boulder in a few days and would see me personally; that he would like to be of such assistance as he could and would consider the matter. I thereupon wrote him a short personal note (by pen; it was vacation and I had no stenographer) to some address he gave, thanking him and saying I would like to talk over things with him at the earliest moment practicable. This in substance. I preserved no copy of my note and speak only from recollection. This, so far as I can recall, was my only written communication with Professor Brewster touching his employment at any time. Professor Brewster returned to Boulder perhaps within a week. I saw him and repeated in substance my request as in this answer outlined. In this first personal interview I think I also spoke of his probable compensation, and intimated that his hours of lectures would probably not exceed ten hours a week. They were subsequently settled upon as ten hours the first semester and seven the second. At this time I distinctly told Professor Brewster that any arrangement was to be considered but temporary.

(6) Did you at that time understand that you were selecting a permanent colleague?

No.

(7) If not permanent, what contingencies did you then have in mind might terminate his relationship with the University?

What I conceived to be Professor Brewster's delicate state of health was probably uppermost in my mind as controlling not only the duration of his employment but his hours of labor and character of his work. Besides, I kept continually before me the prospect of the payment of the Thomson bequest and probable thorough reorganization of our law faculty with full professors upon full time throughout.

(8) Do you recall that some time in August or September you said to Professor Brewster that the payment of the Thomson be-



quest would enable the University to pay him a more appropriate salary?

I always deemed Professor Brewster's salary as adequate; compared with others, that is, and the time he was putting in. I did not use the language mentioned. I may have observed that payment of the Thomson bequest would, I hoped, raise all the law school salaries.

(9) When did you first learn that Professor Brewster's relationship to the University was to end at the close of the year 1914-1915?

Probably late in March of 1915.

(10) Prior to April 30, 1915, did you know that a proposal for the reorganization of the Law School was under consideration?

Yes. I had already talked over with President Farrand, prior to the date mentioned, the reorganization of the law school.

(11) Did you prior to April 30 know that it was contemplated that the adoption of this plan involved the termination of Professor Brewster's relationship to the University at the end of the year 1914-15?

Yes.

(12) Prior to May 7, 1915, did you know that it had been *decided* that Professor Brewster's relationship should end at the close of that year?

Upon learning in March that the Thomson bequest would soon be paid, it was decided that the reorganization need no longer be postponed; and the reorganization did not contemplate the further employment of Professor Brewster beyond the school year ending June, 1915.

(13) From whom and how did you first learn that such termination was either contemplated or decided upon?

It was contemplated by myself from the beginning of Professor Brewster's employment as hereinbefore indicated, that his engagement was to be but temporary and was so understood between President Farrand and me. I do not remember who told me that my suggestions in this behalf had been approved officially, but probably President Farrand.

(14) Is it a fact, as stated by Professor Brewster, that on several occasions during the year you discussed with him plans for his courses for the "next year," meaning the 1915-1916?

Yes; but this was before I knew the Thomson bequest would be paid so soon. I had resolved to recommend that Professor Brewster be invited to continue his work if we did not come into the enjoyment of our bequest so as to make it available for the "next year." I discussed with him casually text books, particularly Gray's Cases.

(15) Is it a fact, as stated by Professor Brewster that late in the spring of 1915 you suggested to him that you would have his name painted on his office door?

Yes, owing to a trivial incident—the painting of a glass sign "Dean's Office," for my door, by one of the students. I think I told Professor Brewster, jokingly, that I would recommend the student to make one also for him, and one for Professor Reed.

(16) Did you ever tell Professor Brewster that a reorganization of the law school was intended to be effectuated when the Thomson bequest was paid, and particularly did you ever intimate to him that he would have no place in that reorganization?

Yes; in my first interview with him when his aid was first solicited, and afterwards frequently whenever the Thomson bequest was under discussion, the reorganization was mentioned and emphasized. I did not, however, tell him he was not to have a place. I thought he knew this or could reasonably infer it from the circumstances and all that had been previously said.

(Signed) JOHN D. FLEMING.

Boulder, Colo., November 10, 1915.

*K. Supplementary Letter of Dean Fleming*

November 22, 1915.

PROFESSOR D. O. MCGOVNEY,  
University of Missouri Law School,  
Columbia, Missouri.

*Dear Sir:*

Since writing to you on the 19th I have reflected that perhaps the following general statement supplementary to my answers to the questions propounded to me may throw some light upon the

situation in our law school in connection with the employment of Professor Brewster.

Two deaths occurred in the law faculty of the University of Colorado near the beginning of the school year 1914-15; that of Professor Pease late in August 1914, and that of Mr. Van Cise, instructor in Colorado Code of Civil Procedure, early in September following. The subjects of our curriculum involved by these deaths were Code of Civil Procedure, Elementary Law, Evidence, Equity, Real Property, and Contracts, and were redistributed among three instructors, besides Professor Brewster, according to the following schedule:

- Colo. Code, Mr. Regennitter, two hours (throughout year).
- El. Law, Contracts, El. Real Prop., Mr. Moorhead, six hours, (throughout year; the subjects being taken up in succession).
- Evidence, Mr. Folsom, three hours (second semester).
- Equity, Professor Brewster, three hours (first semester).
- Real Property, Professor Brewster, seven hours (throughout year).

Only one of these four, Mr. Folsom, had been employed previously. He was then teaching and for several years had taught, two hours a week, the subject of Bailments and Carriers, through one semester, and was besides in charge of our Moot and Practice Court. It was explained to all these gentlemen that this allotment was purely temporary, to tide us over pending the permanent filling of Professor Pease's chair and finding a permanent successor to Mr. Van Cise. In my own mind the procedure to be taken in filling these positions was largely dependent upon payment of the Thomson bequest, when a thorough reorganization of the law school was contemplated. I had every reason at the time to believe that the situation was thoroughly understood by all. At the end of the year the term of service of Mr. Regennitter, Mr. Moorhead, and Professor Brewster expired, and neither of them was re-engaged. Mr. Regennitter and Mr. Moorhead accepted the situation without question or criticism, and only Professor Brewster demurred. Mr. Folsom was retained and raised to rank of full professor; his vigor and acceptable service to the University through a period of some ten years preceding commending him to the consideration of the governing board.

This, simply, was the predicament. It was stated frankly at

the beginning and without attempt at or motive for concealment. The brief showing above as to how the situation was met, and how naturally it would terminate, should at any rate divest the present inquiry of any greater mystery touching the character or tenure of Professor Brewster's appointment than of his said colleagues.

Very truly yours,  
JOHN D. FLEMING.

*L. Statement of Professor F. B. R. Hellems, Dean of the College*

Professor Hellems states to the Secretary of the Association of University Professors that on at least two occasions before the appointment of Professor Brewster, President Farrand told him of his plans for the reorganization of the Law School, and indicated the character of the men whom he desired to secure to fill the permanent professorships in that School. One of these occasions was during the year 1914-15, the other was shortly after the death of Professor Pease. On both occasions President Farrand stated that, in view of the general needs of the School, he was desirous of securing young and vigorous men for these positions.

FRED B. R. HELLEMS.

*September 29, 1915.*

*M. Questions Submitted by Chairman McGovney of the Subcommittee of the American Association of University Professors to President Livingston Farrand of the University of Colorado, with Dr. Farrand's Replies Thereto.*

(1) Will you send me a copy of any minute or minutes of the proceedings of the Board of Regents authorizing you to appoint Mr. Brewster to the law faculty, or ratifying the appointment? This question refers to the appointment made in September, 1914.

Extract from minutes of the meeting of the Board of Regents of the University of Colorado held in Denver October 22, 1914.

"The following appointments were approved:

*   *   *   *   *	
James H. Brewster, Act. Prof. of Law	\$1,800
*   *   *   *   *	

\*Two replies relating to minor matters are, for the sake of brevity, omitted.

"Acting Professor Brewster was assigned to a seat in the University Senate and in the Faculty of the School of Law during his service as Acting Professor of Law."

With regard to the above, it should be noted that the meeting of the Board of Regents held on October 22 was the first meeting after the opening of the University year. The engagement of Mr. Brewster and others had been approved by individual members of the Board and by the Executive Committee informally, so that the action of the Board in formal session was simply in the nature of ratification.

(2) Was the negotiation leading to the appointment of Mr. Brewster in September, 1914, wholly oral?

There were no written preliminary negotiations between Mr. Brewster and myself. I only remember one personal conference with Mr. Brewster previous to his appointment.

(3) If not will you kindly send me any letters, telegrams or other written communications received from him and copies of any such communications sent by you to him?

As stated in answer to Question 2, there were no communications sent.

(6) Is there any affirmative evidence to show that Mr. Brewster would have been unreasonable in inferring from the *negotiations in September, 1914*, that he was being appointed to the normal status and title of professor and not merely to the status and title of "acting-professor?"

The question of Mr. Brewster's appointment to a normal or full professorship was never even in contemplation or under discussion. He was asked to assist temporarily in carrying the work formerly assigned to the late Professor Pease. It was proposed, until the chair could be permanently filled, to divide the work among three men, of whom Mr. Brewster was one. It would have been quite out of the question to consider at that time appointing a permanent professor to carry the work proposed as Mr. Brewster's share. The negotiations between the Dean of the School of Law and Mr. Brewster were reported to me verbally and I, therefore, have no first-hand knowledge of their content. I have no reason to suppose that they were in other terms than those authorized by me in discussion with the Dean.



Certainly, in the conference between Mr. Brewster and myself, just preceding the opening of the University in September, it was distinctly stated that the position was temporary until the University could permanently fill the vacancy. I cannot recall that in that conversation the question of title was mentioned. The purport of the conference was a request on my part, representing the University, that Mr. Brewster help us out in an emergency by carrying a portion of Professor Pease's work for a given remuneration. The negotiations could not possibly be reasonably interpreted as indicating an appointment to an ordinary professorship. I wish to reiterate that in all the negotiations, so far as I know and certainly in those in which I participated, the temporary character of the appointment was always insisted upon.

(7) (a) It is not claimed by you, I believe, that it was distinctly understood on both sides that Mr. Brewster's appointment was for one year only. Is that correct?

In the preliminary negotiations it was understood that the appointment was temporary until the vacancy could be permanently filled. It was implied that such permanent filling would take place at the end of the academic year just commencing. It must be remembered that the vacancy was a sudden one and at a critical time, just preceding the opening of the University year. The immediate problem was to provide for Professor Pease's work. In the negotiations it was distinctly stated and clearly understood that the arrangements being made were simply temporary until the Regents could satisfactorily and permanently fill the vacancy. It was assumed that this could not be done under a year and the appointments were made for that period.

(b) Did you not, in September, 1914, regard the appointment of Mr. Brewster, while not permanent, yet indefinite in the sense of running beyond a year and until certain contingencies happened?

My understanding in September, 1914, was as expressed in the answer to 7 a. I was in hopes at that time that the permanent appointment would be made by the opening of the academic year 1915-1916. I would have expected, should the permanent filling of the vacancy be postponed, to take up the matter anew with the three men involved at the end of the academic year in 1915.

(c) Was the sole contingency that you then had in mind the payment of the Thomson bequest?

The chief contingency was the finding of a satisfactory man for

the place. The receipt of the Thomson bequest was simply one factor in the general Law School situation. We would not have been willing to have Professor Pease's chair remain unfilled for an indefinite period. I felt reasonably comfortable as to the temporary arrangement made for the year 1914-1915 and should not have been greatly concerned had that arrangement continued for another year.

(d) Was Mr. Brewster ever informed prior to May 7, 1915 that his employment would be terminated at the close of the year in which this bequest was paid, or that his retention was in any way related to the payment of that bequest?

I do not recall that I ever mentioned to Mr. Brewster the matter of the Thomson bequest. I did not regard it as a matter with which he was technically concerned. I must reiterate that Mr. Brewster's engagement was simply temporary until a vacancy could be filled and the natural presumption would be that we should proceed to fill the vacancy as soon as might be feasible.

(8) Will you please have sent me by the secretary or other custodian of the records a certified copy of the minutes of the proceedings of the Board of Regents at their meeting of April 30, 1915 so far as such minutes relate in any manner to a proposal for the reorganization of the Law School and action taken thereon, including any resolution, if any, authorizing or directing you to proceed to find teachers for the positions then created or contemplated?

The following are extracts from the minutes of the Board of Regents:

*April 30, 1915.* "The President reported a communication from the Executor of the Olivia Thomson Estate reporting a plan of settlement of the bequest to the University which was approved. "The President was requested to present to the Regents a plan for the reorganization of the School of Law as soon as the funds from the Thomson Estate become available."

*June 7, 1915.* "It was voted to invite Prof. Albert A. Reed, of the School of Law, to give full time instruction in that School at a salary of ——— per annum. "The further organization of the School of Law, in accordance with the plans presented at the previous meeting of the Board of Regents, was referred to the Executive Committee of the Board with power to act."

I hereby certify the above to be a true copy of certain resolutions passed by the Board of Regents on the dates mentioned.

FRANK H. WOLCOTT,  
*Sec'y Board of Regents.*

With reference to the action of April 30, it should be stated that the communication from the executor indicated that the money would be paid early in May, but a definite date was not set. Any formal action of the Regents involving the expenditure of money must necessarily be contingent upon the actual payment of the bequest. The action of the Regents requesting a plan for the reorganization of the School of Law followed an informal presentation by me of the general situation in the School of Law in which I outlined the views of the Dean and myself as to the desirable course to pursue. In this presentation I stated that we should expect to recommend the appointment of two young and vigorous men to professorships in the School of Law, one of these to fill the chair made vacant by the death of Professor Pease, and the other a new chair made possible by the Thomson bequest. In connection with this I mentioned, incidentally, that Mr. Brewster had carried his share of the work of Professor Pease satisfactorily but that we did not regard him as meeting the requirements for one of the permanent appointments. In the informal discussion of the matter the members of the Board were unanimous in approving the tentative plan, and I was requested to present the plan definitely for action at the proper time, as indicated in the extract quoted above.

(9) Was anything expressed by the Board as such, or by individual members of the Board in formal meeting, or prior to or subsequent to such formal meeting, giving you to understand that you were not expected to recommend Mr. Brewster to a place in the faculty upon such reorganization?

Before there was any discussion by members of the Board, I had already outlined somewhat fully the features of the plan which I expected to recommend for action at the proper time. In the course of this exposition I had stated incidentally that I did not expect to recommend Mr. Brewster for appointment to a place on the faculty. In the informal discussion which took place Mr. Brewster was again mentioned incidentally, and, as I recall it, there were remarks made deprecating some of Mr.

Brewster's public expressions. I was in no way given to understand that I was not expected to recommend Mr. Brewster for appointment, except insofar as my own previous outline of the plan had seemed to meet with general approval.

(10) Did you consider after April 30 that your normal right to recommend whom you pleased was restricted by any expressions of the kind referred to in the preceding question? Or that your recommendation of Mr. Brewster if you saw fit thereafter to recommend him, was already prejudged adversely?

I did not regard anything which took place at the meeting of the Board of Regents on April 30 as restricting in the slightest degree my right to recommend any individual for appointment.

(11) In the conversation of May 21, between you and Mr. Brewster, did Mr. Brewster appeal to you or demand of you that you state to him the reason or the "true reason" for your intention, then entertained, not to recommend his reappointment?

In the conversation of May 21 Mr. Brewster asserted that the reason I would not recommend him for appointment was his attitude in the labor situation.

(12) If so, did you say to him that it was "a matter of temperament" or words of like import?

I told him that my definite reasons for not recommending him for appointment were his age and health. I have never discussed with him his temperament in relation to his connection with the University.

(13) What did you mean by the words in your published statement of about July 5, 1915, viz., "His general qualifications for appointment to a chair in the University are not those for which the responsible authorities are seeking?"

In the phrase "general qualifications" I used the word "general" as opposed to "specific" or "technical." I have always been ready to state that, so far as I was able to judge or learn, Mr. Brewster's technical or professional equipment was satisfactory. By general qualifications I meant particularly his age and vigor, which considerations I regarded as of vital importance in the situation in which the University found itself.

(14) Was the meaning of that statement correctly apprehended by the Colorado Springs Evening Telegraph, when in the editorial of July 8, it said:

"President Farrand, as delicately as possible, indicates that Professor Brewster had not sufficient ability to hold the position which he sought. The real facts in the matter seem to be, therefore, that Professor Brewster was not retained because of his lack of ability as an instructor in law, and not because of his views on social questions?"

The statement quoted does not correctly interpret what I meant to express.

(15) What, so far as you can recall, was the train of thought that led you at the conclusion of the conversation of May 7 to say to Mr. Brewster, in effect, that he must not regard his not going to Washington as putting you under any obligation to recommend his reappointment?

In the course of the conversation referred to I had gathered an impression that Mr. Brewster felt that he ought to be appointed to the chair in question. In order that there might not be the slightest misunderstanding I made the remark referred to.

(16) Had Mr. Brewster during his conversation by words or manner caused you to infer that he was willing to accommodate himself to your wishes in order to induce you to alter your attitude in the matter of recommending him for reappointment?

That idea was not in my mind, except as stated in my answer to Question 16.

(17) In your answer to question No. 12 of Secretary Lovejoy, you state that in the conversation of May 7, and in the early part of that conversation, you told Mr. Brewster of the action of the Board on April 30 as to the reorganization of the law school and particularly that "this plan did not involve inviting Mr. Brewster to continue in the service of the University beyond the end of that academic year."

(a) Are you quite sure that the information contained in the above quotation was given Mr. Brewster in the conversation of May 7, rather than in that of May 21?

I am absolutely sure that the information referred to was given to Mr. Brewster in the conversation of May 7.



(b) Did you in the conversation of May 7, state in definite and unmistakable terms that it was decided that Mr. Brewster's employment was to end at the close of the then current session? Or did you attempt to convey this thought by polite allusions only?

I stated definitely and unmistakably that the Regents expected to fill the position in question before the opening of the academic year 1915-1916 and that Mr. Brewster would not be invited to continue his service beyond the end of the then current session.

(c) Did Mr. Brewster seem surprised or disturbed at this information?

I do not recall that Mr. Brewster seemed surprised or disturbed, but he indicated that he felt that he was the obvious man for the position.

LIVINGSTON FARRAND.

*Extract from Report of General Committee on Academic Freedom and Academic Tenure:*

The general committee has advised the committees of inquiry upon questions of principle and of method and procedure, but it has not, as a body, participated in the investigations of facts, and the committees of inquiry alone are responsible for their respective findings of fact. The general committee has, however, examined these special reports and, accepting the findings of the sub-committees upon questions of fact, has approved their conclusions.

## The Committee:

- E. R. A. SELIGMAN, *Chairman*,  
Columbia University.
- CHARLES E. BENNETT,  
Cornell University.
- J. Q. DEALEY,  
Brown University.
- RICHARD T. ELY,  
University of Wisconsin.
- HENRY W. FARNAM,  
Yale University.
- FRANK A. FETTER,  
Princeton University.
- F. H. GIDDINGS,  
Columbia University.
- CHARLES A. KOFOID,  
University of California.
- ARTHUR O. LOVEJOY,  
Johns Hopkins University.
- FREDERICK W. PADELFORD,  
University of Washington.
- ROSCOE POUND,  
Harvard University.
- HOWARD C. WARREN,  
Princeton University.
- U. G. WEATHERLY,  
University of Indiana.

# **SUMMARY REPORT**

**OF THE**

**COMMITTEE ON ACADEMIC FREE-  
DOM AND ACADEMIC TENURE**

**ON THE CASE OF**

**PROFESSOR WILLARD C. FISHER**

**OF WESLEYAN UNIVERSITY**

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Willard C. Fisher, professor of economics in Wesleyan University (Connecticut) was on January 27, 1913, requested by the President of the University to resign his position, with an intimation that dismissal would result if the request was not complied with. Professor Fisher accordingly placed his resignation in the hands of the President. The Committee of Fifteen (General Committee on Academic Freedom and Academic Tenure) received this case for possible investigation and report from the Committee of Nine previously constituted by the American Economic Association, the American Political Science Association, and the American Sociological Society.

In view of the circumstances, (1) that the case came late and indirectly before this committee, and (2) that nearly three years have gone by since it was first publicly discussed, the report here offered is brief, and is limited to a statement of the position taken on each of the three questions of major importance.

1. According to correspondence that passed between President Shanklin and Professor Fisher, the ostensible ground upon which his resignation was called for was an utterance incidentally made by Professor Fisher, in an address, not intended for publication, before a men's literary club at Hartford, Connecticut. In this address certain opinions regarding church-going and Sunday observance were expressed. This Committee is of the opinion that the ground upon which Professor Fisher's removal was officially based was inadequate. The reasons for this opinion are sufficiently set forth in the general report of this Committee in connection with the subject of extramural utterances. Removal upon the grounds officially avowed is the more open to question in view of the action that had been taken by Wesleyan University in qualifying for benefits under the Carnegie Foundation.

2. If the ostensible ground of Professor Fisher's dis-



missal was not the real ground, if it was made an occasion for dismissing a man objectionable to President, or Trustees, or benefactors of the University, for reasons other than the one alleged, this Committee regards the procedure as objectionable. The dangers to academic freedom involved in the method by which the removal was brought about, if the alleged reason was not the real one, are patent. If such a method of college government goes unchallenged as a precedent, there can be no guarantee of ordinary personal liberty in thought and expression, or of security of tenure for any scientific or economic teacher. We cannot too earnestly insist that the dismissal of a college or university professor should be accompanied by a frank and straightforward statement of the actual reasons therefor, and by full opportunity for inquiry by all legitimately interested parties. Moreover, the method of procedure followed (whatever may have been the motives) is inconsistent with the essential conditions of academic tenure as set forth in the general report of this Committee. This feature of the case is particularly striking because Professor Fisher had rendered twenty years of useful service to the University, without having been officially criticized or warned until the day on which his resignation was demanded.

3. The Committee regrets that Professor Fisher so readily tendered his resignation upon the demand of President Shanklin, based as that demand officially was upon manifestly insufficient and inadmissible grounds. The Committee expresses the hope that in future both professors and university administrative authorities will realize, and in their actions acknowledge, the importance of full investigation, with ultimate publicity in view, of every case of dismissal or enforced resignation in which the question of academic freedom may be raised.

The above report has been agreed to, and is respectfully submitted, by the General Committee on Academic Freedom and Academic Tenure.

For the Committee:

EDWIN R. A. SELIGMAN, *Chairman.*

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VOLUME II

MAY, 1916.

NUMBER 3

# BULLETIN

OF

THE AMERICAN ASSOCIATION  
OF UNIVERSITY PROFESSORS

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gift  
Prof. E. C. Case  
5-19-28

## GENERAL ANNOUNCEMENTS

The circulation of the April BULLETIN has been somewhat delayed in order to mail with it, Part 2, containing the Academic Freedom Reports on Colorado and Wesleyan universities. The present issue will be the last of the academic year and is devoted mainly to giving an account of the organization of committees and local chapters. It is hoped that the information presented will prove suggestive as a basis for correspondence with chairmen of committees and others during the summer.

In accordance with a previous announcement, copies of the general Academic Freedom report have been widely circulated by the U. S. Bureau of Education to presidents and trustees of colleges throughout the country. A letter has been addressed, by President Wigmore, to the president of each of the universities and colleges in the list of 118 used by the Association of American Universities (*Educational Review*, December, 1913), calling attention to the desirability of acceptance by the institutions of the specific proposals contained in the general report on Academic Freedom.

A list for complimentary circulation of the BULLETIN has been prepared including the universities and colleges just mentioned, a considerable number of national societies having contact with the work of the teaching profession, also large public libraries, leading periodicals and newspapers, and university and other clubs in the principal cities throughout the country. Suggestions in regard to possible additions to this list may be addressed to the Secretary of the Association.

It has seemed to the officers important to reach an early decision in regard to the time and place of the annual meeting in order that members of the Association remote from the place of meeting selected may be enabled to make their plans sufficiently early. In case the matter should not be settled in time for the issue of this BULLETIN, early announce-

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ment may be expected in *The Nation*, *School and Society*, and *Science*.

The following Nominating Committee has been appointed by President Wigmore to report at the Annual Meeting:

A. W. Small, Chicago (Chairman), J. McK. Cattell, Columbia, E. G. Conklin, Princeton, J. W. Garner, Illinois, F. W. Kelsey, Michigan

A large number of applications for membership have come in and await action at the annual meeting. In the meantime, nominees have been notified that they may receive the BULLETIN at the subscription fee of \$1.00.

The following supplementary corrections of the membership list are added to those published in BULLETIN No. 2:

University of California: Omit J. N. LeConte, H. C. Moffitt, A. W. Ryder

Columbia University: Transfer L. M. Defoe to University of Missouri,  
W. P. Taylor to University of California

Cornell University: Omit J. I. Hutchinson

Add H. Diederichs, G. N. Lauman

Dartmouth College: For A. H. Woods read E. B. Woods

Haverford College: Omit R. M. Jones

Indiana University: For U. G. Weatherley read U. G. Weatherly

Johns Hopkins University: H. C. Jones, deceased, April, 1916.

Ohio State University: For H. C. Hackett read H. C. Hockett

University of Pittsburgh: Omit W. G. Campbell

Vassar College: Add H. N. MacCracken, honorary

University of Wisconsin: For W. J. Week read W. J. Meek

Yale University: C. U. Clark and G. T. Ladd, honorary

The attention of members may be called to interesting developments in regard to college administration at Bryn Mawr College and to a discussion by President Hyde of Bowdoin College of Methods of Appointment and Promotion in *School and Society* of April 15, also to an article on Faculty Participation in College Government by President W. T. Foster of Reed College, in the following issue.

The Bryn Mawr plan,\* as declared in the preamble, grants in principle the following rights to the Faculty:

1. Representation at Meetings of the Board of Directors.
2. A committee elected by the Faculty to make recom-

\*The full text may be found in the Philadelphia Public Ledger of May 20 and is to be published in *School and Society*.

mendations to the Directors as to re-appointments and terminations of appointments.

3. Provisions safeguarding the tenure of office of full professors after a certain number of years of service.

We quote the following paragraphs:

"The president shall consult this committee before making any recommendations to the board of directors on reappointments or refusal of reappointments of offices of instruction. In all such cases the recommendations of this committee and the vote taken shall be reported in writing to the board of directors. Before taking action the committee shall consult with the departments concerned and with the dean of the college. If the case of a member of the committee is under consideration the other members of the committee may appoint a substitute of like rank to consider that particular case. Whenever practicable this committee is to be consulted as to initial appointments."

"Professors and associate professors appointed for indefinite terms shall be removed only after a conference between the Committee on Appointments and a committee of five directors, at which conference the president of the college shall preside, and only after a written report of the findings of said conference shall be made to the board of directors for consideration and action by it. All teachers of the above groups shall be entitled to have the charges against them stated in writing and to have a fair hearing on the charges before this conference before its findings are reached."

Interesting analyses of the recent confidential Proposals of the Carnegie Foundation have been received for the use of Committees from Princeton University, the University of Wisconsin, and the Young Faculty Club of Wesleyan University.

The treasurer has received a check (No. 160) on the Corn Exchange Bank, University Branch, New York City, dated March 1, 1916, in exchange for which he sent out a receipt for the annual dues before noticing that the check was not signed. Will the drawer of the check kindly send for it?



## COUNCIL BUSINESS

The Council has acted on the following business submitted by the officers:

"COUNCIL SUBMISSION 22, APRIL 25, 1916"

*"Place and Date of Annual Meeting.*—It seems important that definite plans should be made before the close of the academic year."

"Convocation Week meetings will be held in New York, Tuesday, December 26 to Saturday, December 30, including the American Association for the Advancement of Science, The American Society of Naturalists (Anatomists, Botanists and Zoölogists), the American Mathematical Society and many other affiliated bodies. Other large organizations are expected to hold meetings at about the same time as follows:

"American Historical Association, Cincinnati, December 27-30.

"American Economic Association, Columbus, December 27-30.

"American Philological Association and Archaeological Institute of America, St. Louis, December 27-29.

"Modern Language Association, Princeton, December 28-30.

"The Executive Committee accordingly presents the following alternative proposals as to place, with the understanding that the dates will be Friday and Saturday, December 29 and 30, which will measurably avoid conflicts if the meeting is held in New York and admit of arrival from New York if the meeting is held elsewhere.

1. New York.
2. Chicago.
3. Some other place in the vicinity of New York, for example, Philadelphia.
4. An intermediate location as, for example, Cincinnati, Columbus or Pittsburgh.

"It will be borne in mind that the Association has met twice already near the Atlantic seaboard, that proximity to the large number of organizations meeting in New York will probably increase the total casual attendance, but that the pressure of the activities of that week may cause considerable interference with the conduct of our business, and that the meetings ought to have the undivided energies of those who do attend.

"It is hoped that members of the Council will, so far as practicable, confer with local chapters before voting. Copies of the above are sent also to chairmen of local chapters."

The Council vote (including a few delayed ballots) was as follows, numbers in parenthesis denoting second choice:

New York 18 (3), Chicago 6 (8), Columbus 4 (4), Pittsburgh 1, St. Louis 1, Cincinnati (8), Philadelphia (6). The Council also authorized the Executive Committee to make the decision in case there should not be 20 votes for any one city.

[Before exercising this authority the Executive Committee is canvassing the opinion of local chapters in the Middle West in order to ascertain whether the special reasons for holding the next meeting in New York are recognized by them as justifying a third consecutive meeting in the East. See also page 9.]

Council Submission 23 was a list of twenty-three nominees for membership all of whom were approved by the Council.

*Procedure in Regard to Nominations.*—Correspondence between the officers and the chairman of the Committee on Qualification for Membership has led to the issue of the following:

"COUNCIL SUBMISSION 24, MAY 5, 1916"

"Temporary Rules for Procedure in Regard to Nominations for Membership. (Pending action of the Committee on Qualifications for Membership, the Secretary submits the following for approval by the Council.)

1. All nominations are to be transmitted first to the Secretary.
2. The name and institution of every nominee, together

with the names of his nominators shall be published in the next following issue of the BULLETIN.

3. Every nomination for membership from an institution in which there is a local chapter shall be referred by the Secretary to the chairman of such chapter for any endorsement he may wish to make.

4. If in any case the Secretary is in doubt as to the eligibility of a nominee, for constitutional reasons, he shall, before publishing the name, (a) request the nominators for additional information, or (b) refer the question to the Committee on Qualifications for Membership. In case the committee rules adversely as to constitutional eligibility, the nominee shall be notified, and the matter reported to the Council at the annual meeting or sooner.

5. After the expiration of 30 days from the date of mailing of the BULLETIN, the approval of the Council shall be deemed to have been given to each nominee whose name was therein published, and against whom no objection, with reasons specified, shall have been filed with the Secretary in writing by any member of the Council.

6. The name of any nominee against whom objection is so made shall be reserved for consideration by the Council at the next annual meeting, unless withdrawn in the meantime.

7. The Secretary shall keep a record of all nominations, showing the date of their publication and of the action taken upon them by the Council and the Association.

8. The Secretary shall notify every nominee that he may, pending election, receive the publications of the current year on payment of one dollar."

"The President and Secretary expect to present suggestions to the committee on Membership with reference to a different procedure in case the necessary amendments of the constitution can be secured providing for definitive election by a Membership Committee."

The result of the ballot on this submission was as follows:

Yes, 20. No (on particular rules), 2.

"COUNCIL SUBMISSION 25, MAY 20, 1916"

*"Place of Future Annual Meetings.*—The President proposes to appoint a Committee of Conference to negotiate with organizations including a large number of members of this Association so that at the next annual meeting some systematic policy may be agreed upon as to holding future meetings periodically in different parts of the country, and in harmony, so far as practicable, with the plans of the several groups."

This proposal was unanimously adopted.

## COMMITTEE APPOINTMENTS

It has been the policy of the Executive Committee to distribute committee appointments rather widely. Occasionally special circumstances have led to the appointment of a member on more than one committee.

The complete list of committee appointments to date is as follows:

### COMMITTEE A

#### Academic Freedom and Academic Tenure

*Chairman, A. A. Young (Econ.), Cornell*

C. E. Bennett (Latin), Cornell; W. B. Cannon (Physiol.), Harvard; R. T. Ely (Econ.), Wisconsin; F. A. Fetter (Econ.), Princeton; F. H. Hodder (History), Kansas; George Lefevre (Zoöl.), Missouri; J. P. Lichtenberger (Sociol.), Pennsylvania; F. R. Lillie (Zoöl.), Chicago; A. O. Lovejoy (Philos.), Hopkins; D. O. McGovney (Law), Missouri; F. M. Padelford (Eng.), Washington (State); G. M. Stratton (Psychol.), California; U. G. Weatherly (Sociol.), Indiana.

### COMMITTEE B

#### Methods of Appointment and Promotion

*Chairman, J. M. Coulter (Botany), Chicago*

W. W. Atwood (Geol.), Harvard; G. E. Barnett (Econ.), Hopkins; J. S. Bassett (History), Smith; C. E. Bennett (Latin), Cornell; Percy Bordwell (Law), Iowa; Clive Day (Econ.), Yale; Max Farrand (History), Yale; J. F. Genung (Eng.), Amherst; R. L. Green (Math.), Stanford; A. S. Haggett (Latin), Washington (State); E. E. Hale (Eng.), Union; L. H. Haney (Chem.), Texas; J. H. Long (Chem.), Northwestern; T. H. Morgan (Zoöl.), Columbia; W. A. Noyes (Chem.), Illinois; J. E. Raycroft (Phys. Cult.), Princeton; Mary Augusta Scott (Eng.), Smith; R. M. Wenley (Philos.), Michigan.

## COMMITTEE C

**Methods of Recruiting the Teaching Profession (by Scholarships and Fellowships, etc.)**

*Chairman, G. E. Barnett (Econ.), Hopkins*

E. W. Brown (Math.), Yale; J. McK. Cattell (Psychol.), Columbia; J. M. Coulter (Botany), Chicago; Warner Fite (Philos.), Princeton; A. S. Johnson (Econ.), Cornell; A. O. Leuschner (Astron.), California; J. S. P. Tatlock (Eng.), Stanford.

## COMMITTEE D

**Limits of Standardization of Institutions, etc.**

*Chairman, T. F. Holgate (Math.), Northwestern*

W. H. Carruth (Germ.), Stanford; W. H. Echols (Math.), Virginia; L. P. Eisenhart (Math.), Princeton; L. J. Lowes (Eng.), Washington (St. Louis); G. H. Mead (Philos.), Chicago; G. H. Parker (Zööl.), Harvard; W. N. Rice (Geol.), Wesleyan; F. N. Scott (Eng.), Michigan; W. A. Scott (Econ.), Wisconsin; W. M. Urban (Philos.), Trinity.

## COMMITTEE E

**Qualifications for Membership**

*Chairman, Frederic C. Woodward (Law), Stanford*

Florence Bascom (Geol.), Bryn Mawr; R. C. Brooks (Pol. Sci.), Swarthmore; Mary W. Calkins (Philos.), Wellesley; Edward Capps (Greek), Princeton; A. P. Carman (Physics), Illinois; J. Q. Dealey (Sociol.), Brown; J. V. Denney (Eng.), Ohio State; E. C. Franklin (Chem.), Stanford; C. M. Gayley (Eng.), California; Irving Hardesty (Anat.), Tulane; A. R. Hohlfeld (Germ.), Wisconsin; J. B. Johnston (Medicine), Minnesota; F. P. McKibben (Engin.), Lehigh; Guido H. Marx (Engin.), Stanford; Walter Miller (Latin), Missouri.



COMMITTEE F

**Organization of Local Chapters or Groups**

*Chairman, John R. Commons (Econ.), Wisconsin*

Chairmen or representatives of chapters as follows:

Amherst, H. C. Lancaster; Brown, N. F. Davis; Bryn Mawr, G. A. Barton; California, C. L. Cory; Chicago, H. E. Slaughter; Cincinnati, L. T. More; Colorado College, Florian Cajori; Cornell, E. L. Nichols; Dartmouth, H. D. Foster; Indiana, J. A. Woodburn; Iowa, C. B. Wilson; Johns Hopkins, G. E. Barnett; Kansas, E. H. Hollands; Lehigh, R. W. Blake; Michigan, R. M. Wenley; Mt. Holyoke, Ellen B. Talbot; Nebraska, H. B. Alexander; College of the City of New York, H. A. Overstreet; North Carolina, George Howe; Northwestern, T. F. Holgate; Ohio, W. T. Magruder; Purdue, J. C. Arthur; Stanford, C. A. Huston; Syracuse, C. W. Hargitt; Tulane, Irving Hardesty; Vassar, E. D. Fite; Washington (St. Louis), Otto Heller; Wellesley, Katharine L. Bates; Yale, R. G. Harrison; Boston group, C. H. Moore (Harvard); New York group, Harold Jacoby (Columbia).

COMMITTEE G

**Causes and Remedies for the Alleged Decline of Intellectual Interests of College Students**

*Chairman, Evarts B. Greene (History), Illinois*

H. E. Bourne (History), Western Reserve; Collier Cobb (Geol.), North Carolina; T. D. A. Cockerell (Botany), Colorado; E. R. Cumings (Geol.), Indiana; F. B. Dains (Chem.), Kansas; H. J. Davenport (Econ.), Missouri; F. P. Emery (Eng.), Dartmouth; William Esty (Engin.), Lehigh; F. M. Fling (History), Nebraska; C. M. Gayley (Eng.), California; W. H. Heck (Psychol.), Virginia; Laura E. Lockwood (Eng.), Wellesley; William MacDonald (History), Brown; H. F. Nachtrieb (Zool.), Minnesota; M. V. O'Shea (Educ.), Wisconsin; Lucy M. Salmon (History), Vassar; W. D. Scott (Psychol.), Northwestern; C. E. Seashore (Psychol.), Iowa.

## COMMITTEE H

**Desirability and Practicability of Increased Migration and Interchange of Graduate Students**

*Chairman, A. O. Leuschner (Astron.), California*

F. W. Blackmar (History), Kansas; W. B. Clark (Geol.), Hopkins; A. T. Clay (Philol.), Yale; G. C. Comstock (Astron.), Wisconsin; J. H. Gray (Econ.), Minnesota; E. R. Hedrick (Math.), Missouri; L. M. Keasbey (Pol. Sci.), Texas; F. W. Kelsey (Latin), Michigan; A. D. Mead (Biol.), Brown; A. W. Meyer (Anat.), Stanford; A. W. Small (Sociol.), Chicago; F. W. Taussig (Econ.), Harvard; J. W. Young (Math.), Dartmouth.

## COMMITTEE I

**University Ethics**

*Chairman, John Dewey (Philos.), Columbia*

G. P. Costigan Jr. (Law), Northwestern; J. D. Fleming (Law), Colorado; W. B. Munro (Pol. Sci.), Harvard; E. A. Ross (Sociol.), Wisconsin; J. H. Tufts (Philos.), Chicago; H. C. Warren (Psychol.), Princeton; U. G. Weatherly (Sociol.), Indiana.

## COMMITTEE J

**Distinctions between the Several Honorary Degrees and the Basis for Conferring Them**

*Chairman, R. M. Wenley (Philos.), Michigan*

R. B. Bean (Anat.), Tulane; E. W. Bowen (Latin), Randolph-Macon; J. W. Bright (Eng.), Hopkins; Florian Cajori (Math.), Colorado College; J. V. Denney (Eng.), Ohio State; C. W. Hargitt (Biol.), Syracuse; H. W. Harper (Chem.), Texas; T. F. Holgate (Math.), Northwestern; G. E. Howard (History), Nebraska; Carl Kelsey (Sociol.), Pennsylvania; Elizabeth Laird (Physics), Mt. Holyoke; E. P. Lewis (Physics), California; O. G. Libby (History), North Dakota; H. C. Metcalf (Econ.), Tufts; A. K. Potter (Eng.), Brown;

H. S. Richards (Law), Wisconsin; M. J. Rosenau (Med.), Harvard; F. Schlesinger (Astron.), Pittsburgh; A. N. Talbot (Engin.), Illinois; C. T. Winchester (Eng.), Wesleyan; J. A. Woodburn (History), Indiana.

#### COMMITTEE K

**Feasibility and Method of Utilizing the Government Scientific Bureaus at Washington and elsewhere—in Co-operation, etc.**

*Chairman, E. D. Durand (Statistics), Minnesota*

E. D. Adams (History), Stanford; W. C. Bagley (Educ.), Illinois; L. R. Jones (Plant Path.), Wisconsin; W. A. Locy (Zoöl.), Northwestern; E. L. Nichols (Physics), Cornell; Charles Palache (Geol.), Harvard; M. P. Ravenel (Medicine), Missouri; H. S. Richards (Law), Wisconsin; Herman Schneider (Engin.), Cincinnati; Henry Schofield (Law), Northwestern; S. W. Williston (Paleon.), Chicago.

#### COMMITTEE L

**Co-operation with Latin-American Universities to Promote Exchange Professorships and Fellowships, etc.**

*Chairman, L. S. Rowe (Pol. Sci.), Pennsylvania*

S. I. Bailey (Astron.), Harvard; J. D. M. Ford (Span.), Harvard; J. H. Hollander (Econ.), Hopkins; W. E. Hotchkiss (Econ.), Northwestern; C. L. Jones (Pol. Sci.), Wisconsin; C. C. Marden (Span.), Hopkins; C. C. Plehn (Econ.), California; E. A. Ross (Sociol.), Wisconsin; C. A. Smith (Eng.), Virginia; Raymond Weeks (Rom. Lang.), Columbia.

#### *Honorary Members*

Hiram Bingham (History), Yale; Geo. H. Blakeslee (History), Clark; E. E. Brandon (Rom. Lang.), Miami; Philip M. Brown (Int. Law.), Princeton; A. C. Coolidge (History), Harvard; A. C. Flick (History), Syracuse; Wm. J. Hussey (Astron.), Michigan; Arthur R. Seymour (Rom. Lang.), Illinois; Glen L. Swiggett (Rom. Lang.), Tennessee; Walter S. Tower (Geog.), Chicago.

## COMMITTEE M

**Recommendations of the Second Pan-American Scientific Congress**

*Chairman, J. D. M. Ford (Span.), Harvard*

S. I. Bailey (Astron.), Harvard; H. E. Bolton (History), California; Percy Bordwell (Int. Law.), Iowa; E. P. Cheyney (History), Pennsylvania; C. A. Ellwood (Sociol.), Missouri; A. M. Espinosa (Span.), Stanford; C. R. Fish (History), Wisconsin; E. C. Hills (Rom. Lang.), Colorado College; C. H. Judd (Psychol.), Chicago; J. H. Latané (Int. Law), Hopkins; F. B. Luquiens (Span.), Yale; A. P. Raggio (Rom. Lang.), Maine; L. S. Rowe (Pol. Sci.), Pennsylvania; R. Schevill (Rom. Lang.), California; Wm. R. Shepherd (History), Columbia; P. O. Skinner (Rom. Lang.), Dartmouth; H. W. Tyler (Math.), Mass. Inst. Tech.; G. G. Wilson (Int. Law), Harvard.

*Honorary Members*

Geo. H. Blakeslee (History), Clark; J. P. W. Crawford (Rom. Lang.), Pennsylvania; G. W. Umphrey (Span.), Washington (State); E. F. Langley (French), Mass. Inst. Tech.; P. A. Martin (History), Stanford.

## COMMITTEE N

**Handbook of American Universities and Colleges**

*Chairman, J. McK. Cattell (Psychol.), Columbia*

T. M. Balliet (Educ.), New York Univ.; Charles Baskerville (Chem.), New York City College; C. W. Doten (Econ.), Mass. Inst. Tech.; T. S. Fiske (Math.), Columbia; J. W. Garner (Pol. Sci.), Illinois; A. L. Kimball (Physics), Amherst; A. C. Lane (Geol.), Tufts; W. T. Magruder (Engin.), Ohio; E. B. Wilson (Math.), Mass. Inst. Tech.

COMMITTEE O

**Requirements for the Ph.D. Degree**

*Chairman, James R. Angell (Psych.), Chicago*

G. E. Barnett (Econ.), Hopkins; Florence Bascom (Geol.), Bryn Mawr; C. A. Ellwood (Sociol.), Missouri; C. M. Gayley (Eng.), California; W. F. Magie (Physics), Princeton; W. R. Newbold (Philos.), Pennsylvania; M. A. Rosanoff (Chem.), Pittsburgh; M. S. Slaughter (Latin), Wisconsin; Frank Thilly (Philos.), Cornell; Calvin Thomas (Germ.), Columbia; H. S. White (Germ.), Harvard.

COMMITTEE P

**Systems of Pensions and Insurance for University Teachers**

*Chairman, H. F. Stone (Law), Columbia*

T. S. Adams (Econ.), Cornell; F. H. Bohlen (Law), Pennsylvania; W. W. Cook (Law), Chicago; F. S. Deibler (Econ.), Northwestern; F. H. Dixon (Econ.), Dartmouth; T. C. Esty (Math.), Amherst; W. F. Gephart (Econ.), Washington (St. Louis); J. H. Gray (Econ.), Minnesota; M. W. Haskell (Math.), California; Otto Heller (Philos.), Washington (St. Louis); J. H. Hollander (Econ.), Hopkins; S. S. Huebner (Econ.), Pennsylvania; Joseph Jastrow (Psychol.), Wisconsin; E. W. Kemmerer (Econ.), Princeton; A. C. Lane (Geol.), Tufts; A. O. Lovejoy (Phil.), Hopkins; C. C. Plehn (Finance), California; H. L. Rietz (Math.), Illinois; A. H. Thorndike (Eng.), Columbia; H. S. White (Math.), Vassar; W. F. Willcox (Econ.), Cornell.

COMMITTEE Q

**Conference with Other Societies**

This has just been authorized but not yet appointed.

## ANNOUNCEMENTS FROM COMMITTEES

The following announcements are published by agreement with the respective chairmen of committees:

### COMMITTEE ON ACADEMIC FREEDOM AND ACADEMIC TENURE

The work of this committee includes, first, the preparation of a general report, and second, the investigation upon complaint of particular instances of alleged interference with academic freedom or with the proper conditions of academic tenure.

In its general report the committee expects to supplement the report on Academic Freedom and Academic Tenure presented at the Washington meeting by a consideration of the various specific grounds on which dismissal from academic positions may be held to be justified. It expects to deal more largely with the specific issues of "academic tenure" than with the general principles of "academic freedom."

Investigations of conditions existing in particular institutions are made upon the authorization of the Executive Committee of the Association upon the recommendation of the chairman of the committee. These investigations are made and reported upon by sub-committees. The investigations in progress at the present time are concerned with conditions at Allegheny College, the College of Wooster, and the University of Washington. The chairmen of the sub-committees having these investigations in charge are in the order named: Professors E. P. Cheyney, H. A. Aikins, and H. B. Torrey.

A. A. YOUNG,  
*Chairman.*

### COMMITTEE ON UNIVERSITY ETHICS

In behalf of the Committee on University Ethics, the undersigned respectfully requests members of the Association in general to communicate to him suggestions as to topics to be considered, including such perplexities as have been



observed with respect to which discussion would be likely to be helpful. Illustrative incidents will be welcomed. It is obviously desirable that any report on University Ethics should be relevant to actual situations and not of a purely theoretical character. The wider and more varied the experiences to draw upon, the more valuable will be any action of the Committee. President Wigmore has called my attention to the fact that the New York County Bar Association's Committee on Professional Ethics answers questions of professional ethics put to it from members of the bar, and publishes the answers, without names, in the law journals. If some similar method could be followed by our Committee, it would ensure that a guiding body of traditions and principles would be built up as the product of concrete experience, instead of its being purely academic in character. Hence it is hoped that a very large number of teachers will put at the disposal of the committee the questions, incidents and topics relevant to the subject of University Ethics which have come within their notice.

JOHN DEWEY,

*For the Committee on University Ethics.*

The following extract from an article in the *Atlantic Monthly*,\* by Professor H. C. Warren of Princeton University, is suggestive as to the type of questions which may arise:

"The medical association prescribes strict rules concerning the relation of physician to patient, and of specialist to general practitioner. The physician is expected to answer an emergency call, even when no remuneration is assured. The medical association has declared very definitely that a physician must not patent any prescription; all new formulas which he discovers are the property of the profession. But he is allowed to copyright his books, and he may be retained in legal cases as a professional expert.

"No such definite regulations exist in the scholastic profession. There are instances where a laboratory has claimed the ownership of apparatus devised by one of its students and the latter has protested. Some investigators patent

\* Vol. 114, p. 689

their laboratory devices; others offer them freely to the profession. Such points of etiquette should be definitely settled in a carefully formulated code. Definite rulings should prescribe to what extent a professor may be expected or given opportunity to deliver popular lectures, and how far research and literary activities may properly share his time with classroom work. It might also be determined to what extent one is bound to supply a colleague's place temporarily in cases of illness, and whether a professor in good standing should accept a chair from which a colleague has been removed without trial."

#### COMMITTEE ON HONORARY DEGREES

As the organization of this Committee has just been completed, the work is in the preliminary stages only. It would be of great assistance to me were any members of the Association, who feel so minded, to give me information on the following points:

1. What Degrees are conferred *causa honoris* in their university;
2. What statutes, if any, exist with reference to the selection of recipients; or, if there be no statutes, what procedure is of use and wont;
3. What positive suggestions they may have to make regarding advisable or necessary changes.

R. M. WENLEY,  
*Chairman.*

#### COMMITTEE ON CO-OPERATION WITH LATIN AMERICAN UNIVERSITIES

This committee has now been fully organized under the Chairmanship of Professor L. S. Rowe, of the University of Pennsylvania. The work of the Committee will be divided into three distinct parts:

1. A plan for the establishment of exchange professorships.
2. A plan for the establishment of fellowships, in the universities of the United States and in those of Latin America.
3. A plan for closer scientific co-operation between the institutions of the United States and those of Central and South America.

## LOCAL CHAPTERS

Local chapters have been organized more or less formally as follows:

Amherst, Brown, Bryn Mawr, California, Chicago, Cincinnati, Colorado (College), Cornell, Dartmouth, Indiana, Iowa, Johns Hopkins, Kansas, Lehigh, Michigan, Mt. Holyoke, Nebraska, College of the City of New York, North Carolina, Northwestern, Ohio, Purdue, Stanford, Syracuse, Texas, Tulane, Vassar, Washington (St. Louis), Wellesley, Williams, Yale.

Local groups on a geographical basis have also been organized at New York and Boston. The former group includes members at Columbia, College of the City of New York, Hunter College, New York University, and Princeton. The Boston group includes members at Clark, Harvard, Massachusetts Institute of Technology, Simmons, Tufts, and Wellesley.

The Chairman of the Committee on Local Chapters, Professor John R. Commons, University of Wisconsin, invites comments, recommendations and suggestions from local associations as to the experience, the interest taken, and the part which such chapters should play in the general organization of the association. These will be summarized and incorporated in the report to be made to the next annual meeting.

Among items of general interest already reported from the different chapters the following may be mentioned:

*Boston.*—The local chapter has had interesting discussion of the "Proposals of the Carnegie Foundation," "Faculty Participation in the Preparation of Budgets" and "The Division of Funds Between Research and Instruction." In regard to the first of these matters, the following votes were passed:—

"Voted that it is the sense of this meeting that the comprehensive plan of insurance and annuities for college teachers proposed by the Carnegie Foundation for the Advancement of Teaching should be carefully considered and investigated by the Association of University Professors.

"Voted that it is the sense of this meeting that the several faculties here represented should be asked to consider, as soon as practicable, the expediency of requesting the Carnegie Foundation to postpone action pending the result of such investigation."

A discussion of Faculty Participation in the Preparation of Budgets took a somewhat wide range, including particularly the question of departmental organization and the proper division of responsibility between heads of departments and other administrative officers.

The consideration of Division of Funds between Research and Instruction, led to the adoption of the following vote, presented with a view to consideration at the annual meeting:—

"Voted, to recommend to the Association of University Professors, that in universities and the more important colleges adequate provision for research should be made in the case of teachers having special ability for such work. This should be done by relieving them of teaching on certain days and providing assistants, apparatus, or means for publication. When the funds of the college do not permit of this, it is recommended that efforts be made to secure the necessary aid from other sources. In preparing the budget, a special item should be inserted with a statement of its need for the extension of human knowledge and the promotion of education of the highest type."

*Chicago.*—At a meeting of the University of Chicago local chapter, the following votes were passed:—

"That it be the sense of the chapter that the desirability of faculty participation in the preparation of university budgets should be investigated by a committee of the Association."

"That in view of the large influence which the Carnegie Foundation has exercised in the organization and standardization of institutions of higher education, it is the judgment of this chapter that it is desirable to examine carefully the new proposals of this Foundation."

The appointment of a committee by the Association to consider 'Whether a larger proportion of University funds should be devoted to research than to instruction' was regarded by the local chapter as unwise on the ground that the question as stated is too seriously affected by local conditions to admit profitable investigation. As bearing, however, on the broad problem suggested by this question, a motion was made and carried: "That the chapter recommends that the Association appoint a committee to investigate and report on the importance of encouraging research on the part of instructors (1) as an aid to the value of instruction, (2) as meeting the need of the country for results from research in the various branches of science, (3) as developing a large number of investigators from the student body as a national asset."

*Dartmouth.*—The Dartmouth chapter reports a supper meeting April 27, with discussion of the proposals of the Committee on Academic Freedom.

*New York.*—A meeting of members, representing institutions in the vicinity of New York, was held at that city, May 8. Mr. John Tatlock, former Actuary in the Mutual Life Insurance Co., gave an extended analysis of the recent confidential report of the Carnegie Foundation. A committee was appointed, with Professor Jacoby as chairman, to coöperate with the national committee in the investigation of the matter. The members of the committee thus appointed are Dewey, Woodbridge and Cattell, of Columbia, and Warren, of Princeton.

It was then decided that in the opinion of the New York Chapter, New York is the desirable place for the next annual meeting, and it was voted that the Association be cordially invited to meet at that place.



*Wellesley.*—A committee of the Wellesley chapter, appointed to consider the question of membership, has presented a report which will be brought to the attention of the general committee on Qualifications for Membership. In particular, the Wellesley committee deems it desirable to secure recommendation for membership for all members of the Wellesley Faculty, who are eligible, on the basis of the following letter of invitation:—

“Some time ago a group of professors from various colleges and universities decided to form an association for the purpose of placing the profession upon the best possible basis. This organization has been recently formed under the name of ‘The American Association of University Professors.’ The Association desires at once to extend its membership in such a way as to make it truly representative of the profession.

“The present Wellesley members of the Association have formed a local chapter, which has as its first purpose the extension of the membership of the Association in Wellesley College. We desire to recommend for membership all members of the Wellesley College faculty who are eligible under the present rules of the Association, as set forth in Article II of the Constitution:—

“Although the Association is so recently organized there are already indications that it is likely to have an active influence in matters of great concern to all members of the profession. It is therefore most desirable that all eligible persons should join the Association while it is still in a formative stage, in order that all may share in determining its character. The dues are \$2.00 per annum.

“In view of the above facts, we cordially invite you to fill out the back of the enclosed card and return it, preferably within one week, to the chairman of the Committee on Membership, who will secure the necessary signatures.”